

AK LEGISLATURE FINANCE COMMITTEES FILES 2007-2008 3158

40

Selection Criteria

1. Preapplications received by July 1, will be prioritized for funding in the following fiscal year.
2. Only preapplications which have met the requirements noted in the "Application Guidelines" and the "Application Content" sections will be prioritized. That is, applications must be properly completed on the appropriate forms. They must include the proper attachments and the applicant must have clear authority and adequate funding to begin the design process.
3. Preapplications meeting these basic requirements will be prioritized according to published criteria in the Program Guide, PG 40-1.
4. VA will rank the preapplications and announce priorities by August 15. VA will rank applications according to priority and the date on which the application was received.
5. Prioritization follows these rules:
 - o PRIORITY I - Projects needed to avoid disruption in burial service that would otherwise occur at existing veterans' cemeteries within 4 years of the date of the preapplication. Such projects would include phased expansion projects as well as improvement projects that are needed to continue interment operations.
 - o PRIORITY II - Projects for the establishment of new veterans' cemeteries.
 - o PRIORITY III - Planned phased developments prior to need.
 - o PRIORITY IV - Other improvement projects.

Within priority groups 1, 2 and 3, highest priority will be given to projects in geographical locations that would provide **service to the largest number** of unserved veterans as determined by VA. Within priority group 4, projects will be ranked in order based upon VA's determination of the relative importance and necessity to operate.

Review Process

1. In addition to the required forms, assurances, certifications and attachments, all projects must comply with the National Environmental Policy Act and the National Historic Preservation Act. In many cases, especially with new cemeteries, the applicant will be required to perform an Environmental Assessment (EA) to determine whether a more in-depth Environmental Impact Study (EIS) is required. The EA should progress toward a Finding of No Significant Impact (FONSI). The FONSI should be made available for public review and comment.
2. The National Historic Preservation Act requires VA to determine whether proposed projects will have any impact on historic or cultural resources. When a new cemetery is being established, it is normally necessary to perform an investigation of the site to determine whether any historic or cultural resources would be affected and, if so, what mitigation or protection may be afforded. The applicant then confers with the State Historic Preservation Office (SHPO), which renders an opinion of the project's impact. Depending on the opinion of the SHPO, VA may be able to approve the project.
3. Most states hire architect/engineer (A/E) firms to design major projects. In the case of major projects, including all establishment grants, VA requires a "pre-design conference" in which VA, state and A/E representatives meet to familiarize themselves with the site and VA design requirements.
4. VA requires a "master plan" for establishment of new cemeteries. The master plan should analyze the

major factors affecting design of the cemetery—including climate, soil, hydrology, site constraints, views, and activity level. The plan should analyze alternative designs and address the ultimate “build-out” of the site and planned phases of development.

5. The design process then proceeds to “design development” or partial plans, sometimes called 40 percent or 50 percent drawings. Again VA must review these submissions and approve them.
6. The final design submission comprises the construction drawings and specifications. VA is required to approve these documents before the state advertises for bids. Cemetery plans must be complete, comprehensive and professional.
7. Based on construction bids, the state submits a new form 424 and 424C that reflects the actual construction amount rather than the estimated amount provided in the preapplication. Along with the forms, the state must submit a tabulation of bids and designate the contractor to whom the contract will be awarded. VA reviews these materials and then awards the grant. Once the state receives the Notification of Grant Award, they may request reimbursement for costs they have already incurred such as design costs.

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Reviewed/Updated Date: September 13, 2006



64.203 State Cemetery Grants

FEDERAL AGENCY:

NATIONAL CEMETERY ADMINISTRATION, DEPARTMENT OF VETERANS AFFAIRS

AUTHORIZATION:

Veterans Housing Benefits Act of 1978, Section 202, Public Laws 95-476, 98-223, 100-687, 103-446, and 105-368; 38 U.S.C. 2408.

OBJECTIVES:

To assist States in the establishment, expansion, and improvement of veterans' cemeteries.

TYPES OF ASSISTANCE:

Project Grants.

USES AND USE RESTRICTIONS:

Monetary assistance is provided under this program to construct, expand, and improve State veterans' cemeteries. Cemeteries must be State-owned and operated solely for the interment of eligible veterans and their dependents and/or spouses. Construction cost means the amount found necessary to convert a tract of land to an operational cemetery.

ELIGIBILITY REQUIREMENTS:

Applicant Eligibility:

Any State may apply.

Beneficiary Eligibility:

The cemetery must be used solely for the interment of veterans, their wives, husbands, surviving spouses, minor children, and unmarried adult children who were physically or mentally disabled and incapable of self support: section 1.620 of 38 CFR

Credentials/Documentation:

Costs will be determined in accordance with revised OMB Circular No. A-87 for State Governments, dated May 4, 1995, and further amended August 29, 1997.

APPLICATION AND AWARD PROCESS:

Preapplication Coordination:

Consultation or assistance is available from VA Central Office personnel (State Cemetery Grants Service) to aid in the preparation of an application. The standard application forms as furnished by VA and required by OMB Circular No. A-102 must be used for this program (Standard Form 424, "Application for Federal Assistance," with attachments). An environmental assessment is required. This program is eligible for coverage under E.O. 12372, "Intergovernmental Review of Federal Programs." An applicant should consult the office or official designated as the single point of contact in his or her State for more information on the process the State requires to be followed in applying for assistance, if

the State has selected the program for review.

Application Procedure:

Submit Standard Form 424, "Application for Federal Assistance for Construction Programs," with attachments, to the Director, State Cemetery Grants Service (401C), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. This program is excluded from coverage under OMB Circular No. A-110.

Award Procedure:

Formal notification of the award to the State is made by the Under Secretary for Memorial Affairs, National Cemetery Administration.

Deadlines:

A deadline of July 1 is established for the filing of applications in the year prior to the fiscal year in which funding is requested.

Range of Approval/Disapproval Time:

From 30 to 60 days.

Appeals:

No application shall be disapproved until the applicant has been afforded an opportunity for a hearing.

Renewals:

Not applicable.

ASSISTANCE CONSIDERATIONS:

Formula and Matching Requirements:

The amount of the Federal contribution to a State is up to 100 percent of the cost of establishing, improving or expanding State Veterans Cemeteries. In the case of establishment grants, the cost of operating equipment may also be included. Land value is not included as an allowable cost for reimbursement under the grant.

Length and Time Phasing of Assistance:

Funds are provided by electronic transfer of funds and must be used within 3 years.

POST ASSISTANCE REQUIREMENTS:

Reports:

Outlay Report and Request for Reimbursement for Construction Programs, and Performance Reports are accomplished in accord with 38 CFR Part 43.

Audits:

In accordance with the provisions of OMB Circular No. A-133 (Revised, June 24, 1997), "Audits of States, Local Governments, and Nonprofit Organizations," nonfederal entities that expend financial assistance of \$300,000 or more in Federal awards will have a single or a program-specific audit conducted for that year. Nonfederal entities that expend less than \$300,000 a year in Federal awards are exempt from Federal audit requirements for that year, except as noted in Circular No. A-133.

Records:

Financial records, supporting documents, statistical records and all other records pertinent to a grant shall be retained for a period of 3 years. If any claim or audit is started before the expiration of the 3 year period, the records shall be retained until all litigation, claims or audit findings involving the records

have been resolved.

FINANCIAL INFORMATION:**Account Identification:**

36-0183-0-1-705.

Obligations:

(Grants) FY 04 \$33,621,693; FY 05 est \$36,109,000; and FY 06 est \$32,000,000.

Range and Average of Financial Assistance:

\$4,305 to \$10,965,607. Average: \$1,533,992.

PROGRAM ACCOMPLISHMENTS:

For fiscal year 2005 the State Cemetery Grants Service has received requests totaling \$126,070,995. The State Cemetery Grants Service estimates approximately 5 to 10 applications to establish, expand, or improve State veterans cemeteries in fiscal years 2005 and 2006.

REGULATIONS, GUIDELINES, AND LITERATURE:

VA Regulations 38 CFR Parts 39 and 43, State Cemetery Grant Program; State Cemetery Grants Program Guide (PG 40-1); and, "Federal Assistance for Establishment, Expansion and Improvement of State Veterans' Cemeteries (State Cemetery Grants Program)" (VA Pamphlet 40-96).

INFORMATION CONTACTS:**Regional or Local Office:**

None.

Headquarters Office:

Director, State Cemetery Grants Service, (41E), National Cemetery Administration, Department of Veterans Affairs, 810 Vermont Avenue, N.W., Washington, DC 20420. Contact: Mr. William Jayne. Telephone: (202) 565-6152 or 565-6801. Fax: (202) 565-6141.

Web Site Address:

<http://www.va.gov>.

RELATED PROGRAMS:

64.101, Burial Expenses Allowance for Veterans; 64.201, National Cemeteries; 64.202, Procurement of Headstones and Markers and/or Presidential Memorial Certificates.

EXAMPLES OF FUNDED PROJECTS:

1) Construction necessary to convert a tract of land to an operational cemetery; 2) construction of a committal facility, administration/maintenance building, and improve storm drainage system; and 3) the expansion of cemetery acreage or building a committal shelter.

CRITERIA FOR SELECTING PROPOSALS:

Applications are prioritized and ranked with other projects in the order received. The priority system consists of six groups or categories. Examples: The extent to which States have adequate funds to match the Federal grant; and the extent to which a project involves additional gravesites necessary to keep the cemetery open. The availability of the Federal and nonfederal share of the project is a primary consideration.

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By: Luke Hopkins
Hank Bartos
Introduced: 03/24/05
Adopted: 03/24/05

FAIRBANKS NORTH STAR BOROUGH
RESOLUTION NO. 2005 - 15

A RESOLUTION SUPPORTING THE CREATION OF A STATE VETERANS' CEMETERY IN THE INTERIOR THROUGH LEGISLATION THAT ESTABLISHES AN ALASKAN VETERANS CEMETERY WITH FUNDS FROM THE U.S. DEPARTMENT OF VETERANS AFFAIRS (VA) STATE CEMETERY GRANTS PROGRAM.

WHEREAS, Alaskan veterans deserve a cemetery that is located in the Interior that honors their service; and

WHEREAS, according to the Department of Veterans Affairs National Cemetery Administration, Alaska has more residents in the military on a per-capita basis than any other state. There are approximately 11,164 veterans living in the Fairbanks North Star Borough; and

WHEREAS, the nearest officially designated military cemetery is located in Anchorage at Fort Richardson Army base; and

WHEREAS, the VA National Cemetery Administration follows a 6-step process to build a new state veterans cemetery: site selection; environmental assessment; land acquisition; master planning and design development; construction documents preparation; and construction award and completion; and

WHEREAS, the Alaska Department of Military and Veterans' Affairs can be awarded up to 100 percent of the development costs from the VA State Cemetery Grants Program for an approved project and the VA has awarded 137 grants to establish and improve veterans cemeteries around the country; and

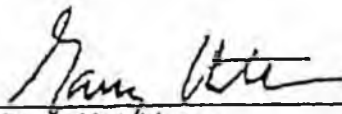
WHEREAS, a State Veterans' Cemetery in the Interior would better serve needs of the veterans and their families, and provide a place that is centrally located, honorable, and would provide a place in the Interior for soldiers to be laid with full military funeral honors, pallbearers, rifle tearn, flag folding, and flag presentation; and

NOW THEREFORE BE IT RESOLVED, that the Fairbanks North Star Borough Assembly supports the creation of a State Veterans' Cemetery in the Interior and recognizes veterans' sacrifices while serving our country.

46 BE IT FURTHER RESOLVED, that copies of this resolution shall be
47 forwarded to The Honorable Governor Frank Murkowski, the Alaska Interior Delegation,
48 members of the House Military and Veterans Affairs Committee, Major General Craig E.
49 Campbell Adjutant General/Commissioner, Military and Veterans Affairs, The Honorable
50 Senator Ted Stevens, the Honorable Senator Lisa Murkowski, the Honorable
51 Congressman Don Young.

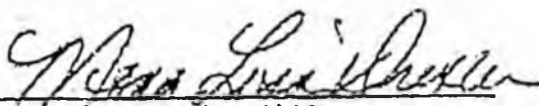
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PASSED AND APPROVED THIS 24th DAY OF MARCH 2005.



Garry Hutchison
Presiding Officer

ATTEST: :



Mona Lisa Drexler, GMC
Municipal Borough Clerk

55 Ayes: Romans, Bartos, Sattley, Rex, Williams, Hopkins, Aldridge, Frank, Hutchison
56 Noes: None
57



April 17, 2007

The Honorable Mike Chenault, Co-Chair
House Finance Committee
Alaska State Capitol, Room 505
Juneau, AK 99801-1182

The Honorable Kevin Meyer, Co-Chair
House Finance Committee
Alaska State Capitol, Room 515
Juneau, AK 99801-1182

RE: HB 45 (Guttenberg & Doll)--Support

Dear Co-Chairs Chenault and Meyer:

On behalf of the members of AARP in Alaska, we urge you and your colleagues on the House Finance Committee to support HB 45, authored by Representatives David Guttenberg and Andrea Doll and co-sponsored by your Committee colleague Representative Harry Crawford as well as Representatives Lynn, Kerttula, Roses, Johnson, Gruenberg and Olson.

HB 45 would establish a fund for the maintenance of and development of future veterans' cemeteries in Alaska. As you know, the only veterans' cemeteries are in Anchorage and Sitka yet the Fairbanks area alone has over 11,000 veterans, many of whom are AARP members. Certainly veterans and their families would like to have a cemetery closer to where they live.

Burial in a veterans' cemetery is one of the last honors we can offer our fellow citizens who have served in the Armed Forces. We think it is a well-deserved tribute to these men and women who served our country. It is a proper thank-you to the veterans and their families.

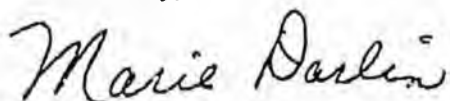
Undoubtedly there may be some costs associated with a new cemetery. Our veterans didn't weigh the costs when they joined the armed services. Surely we can bear the costs of this final thank-you to them.

AARP recommends an "AYE" vote on HB 45.

Should you have any questions about our position, please feel free to contact me (586-3637) or Patrick Luby, AARP Advocacy Director (907-762-3314).

Thank you for your consideration.

Sincerely,



Marie Darlin, Coordinator
AARP Capital City Task Force
415 Willoughby Avenue, Apt. 506
Juneau, AK 99801
586-3637 (voice)
463-3580 (fax)

CC: Vice-Chair Bill Stoltze
Representative Richard Foster
Representative Mike Hawker
Representative Bill Thomas
Representative Harry Crawford
Representative Les Gara
Representative Reggie Joule
Representative Mike Kelly
Representative Mary Nelson
Representative Andrea Doll
Representative David Guttenberg

HB

48

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: CSHB048(STA)-DOA-DRB-3-06-07
Bill Version: CSHB048(STA)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title An Act amending the powers of the ARMB to RDU Centralized Administrative Services
authorize purchase and sale of tax credit certificates. Component Retirement and Benefits
Sponsor Representatives Seaton
Requester House Finance Component No. 64

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill grants authority to the Alaska Retirement Management Board (ARMB) to purchase transferable tax credit certificates issued under AS 43.55.023 for 92% of the face value of the certificate and then sell the tax credit certificates to the Department of Revenue under AS 43.55.023(f) for the full face value of the certificate. Proceeds of the sale of tax credit certificates will be applied to the unfunded pension liability of the defined benefit retirement plans for which the board has responsibility. The bill will have no financial impact on the administration of the plans by the DividiRB and result in a zero fiscal note.

Prepared by: Melanie Millhorn, Director
Division: Division of Retirement and Benefits
Approved by: Rachael Petro, Deputy Commissioner
Agency: Department of Administration

Phone 465-4817
Date/Time 3/6/2007 10:30am
Date 3/6/07 11:15am

FISCAL NOTE

not adopted
2/14/07

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: CSHB048-DOR-TAX-2-14-07
 Bill Version: CSHB 48(STA)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue 04
 Title Retirement Board Purchase PPT Credits RDU Taxation and Treasury
 Component Tax Division
 Sponsor Representatives Seaton, Kelly
 Requester (H) State Affairs Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

*This bill would authorize the Alaska Retirement Management Board (ARM) to purchase transferable tax credit certificates issued under AS 43.55.023 and AS 43.55.025 for 92 percent of the face value of the certificates. The ARM board would then sell the certificates to the Department of Revenue for the full face value of the certificates, unless the commissioner of the Department of Revenue determines that economic conditions are not acceptable for the state to purchase and pay for the certificates. The proceeds of these sales would be used by the ARM board to defray the unfunded pension liabilities for which the board is responsible.

Alaska Statutes 43.55 currently offers three clearly identifiable means of obtaining and selling tax credits for petroleum exploration activity and other capital costs relating to petroleum production.

Prepared by: Brian Andrews, Cherie Nienthuis and Roger Marks Phone 465-2300
 Division Treasury and Tax Date/Time 2/13/07 10:00 AM
 Approved by: Jerry Burnett Date 2/14/2007
 Agency Department of Revenue

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

BILL NO. HB 48

ANALYSIS CONTINUATION

AS 43.55.025, known as the Exploration Incentive Credit, offers tax credits for either 20% or 40% of exploration expenditures incurred before July 1, 2016. The certificates issued under this program can be carried forward or transferred. Current statutes allow these credit certificates to be sold to other taxpayers; there is no provision for the state to buy credit certificates generated under AS 43.55.025 directly from the explorer to which the credit was originally issued.

Tax credits generated under AS 43.55.023, through excess capital expenditures or net losses, can also be carried forward or transferred. Current statutes allow these credit certificates to be sold to (1) other taxpayers (AS 43.55.023(e)), or (2) to the state Department of Revenue (AS 43.55.023(f)).

Although there are qualifying criteria for the state's purchase of credit certificates at AS 43.55.023(f), there are no restrictions on the amount to be paid for the certificates (other than the maximum refund per taxpayer of \$25 million per year), and it is assumed that the state would pay full face value for the certificates. There are also no restrictions on the amount other taxpayers can pay for the certificates, although it is assumed they would pay less than face value and current statutes limit the amount transferred certificates can reduce a taxpayer's liability to 20 percent per year.

Given the three options and their qualifying criteria, it is difficult to assess which program certificate holders will favor. Were the expenditures to qualify under the EIC 40% credit program, then it is likely that would be the first choice. As of December 31, 2006, the EIC program issued credits totaling \$34.7 million dollars over the 3.5 years since the program's inception; additional applications are pending approval by the department. If all the credits issued were sold to the ARM board for 92% of the face value and resold to the Department of Revenue, the total generated for the ARM board over the period would have been approximately \$2.8 million.

Alternatively, should the expenditures qualify only for the 20% credit, then it is likely that the certificates would be transferred to the highest bidder. The highest bidder could be another taxpayer, the state Department of Revenue, or, under this bill, the ARM board.

moved N/O
3/6/07

not taken up
on 2/14/07

25-LS0259A.E.1
Bullock
2/12/07

AMENDMENT 1

Meyer on
behalf of
Rep Seaton

OFFERED IN THE HOUSE
TO: CSHB 48(STA)

1 Page 1, line 3, following "gas;":

2 Insert "relating to transferable tax credit certificates issued under the oil and gas
3 production tax;"

5 Page 2, line 6:

6 Delete "AS 43.55.023(f) and 43.55.025"
7 Insert "AS 43.55.023(l) and 43.55.025(l)"

9 Page 2, following line 19:

10 Insert new bill sections to read:

11 "* Sec. 2. AS 43.55.023 is amended by adding a new subsection to read:

12 (l) Notwithstanding the limitation on the use of a transferable tax credit by a
13 transferee in (e) of this section and subject to appropriations made by law, the
14 department shall issue a cash refund to the Alaska Retirement Management Board for
15 a transferable tax credit originally issued to a person under (d) of this section and
16 purchased by the Alaska Retirement Management Board under AS 37.10.220(b).

17 * Sec. 3. AS 43.55.025 is amended by adding a new subsection to read:

18 (l) Subject to appropriations made by law, the department shall issue a cash
19 refund to the Alaska Retirement Management Board for a transferable tax credit
20 originally issued to an explorer under (f) of this section and purchased by the Alaska
21 Retirement Management Board under AS 37.10.220(b)."

23 Renumber the following bill section accordingly.

3-6-07

Alaska Retirement Management Board
P.O. Box 110405
Juneau, Alaska 99811-0405
(907) 465-3749

February 23, 2007

The Honorable Paul Seaton
Alaska House of Representatives
State Capitol, Room 102
Juneau, Alaska 99801-1182

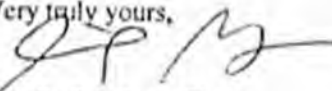
Dear Representative Seaton:

The trustees of the Alaska Retirement Management Board (ARMB) met today to consider the questions regarding HB 48 forwarded from you through Chief Investment Officer Gary Bader. At an earlier meeting this month the Board heard a legislative update with a brief synopsis of pending legislation that included this bill. The trustees also reviewed a memorandum from staff, a copy of which is attached.

The trustees agree that passage of HB 48, allowing the ARMB to purchase transferable tax credits established under the Petroleum Profits Tax (PPT) and obtain reimbursement of the credits through the Department of Revenue, is a valuable tool in addressing the retirement systems' unfunded liabilities and/or contribution rates. Trustees also concur with setting the discount rate at 92% for purchase of the investment tax credits.

We appreciate your continued support and efforts at finding solutions to fully fund our retirement system.

Very truly yours,


Gail R. Schubert, Chair

Attachment

ALASKA RETIREMENT MANAGEMENT BOARD

SUBJECT: Position on House Bill 48

ACTION: X

DATE: February 23, 2007

INFORMATION: _____

BACKGROUND:

House Bill 48 would allow the Alaska Retirement Management Board (ARMB) to purchase transferable tax credits established under the Petroleum Profits Tax (PPT) and obtain reimbursement of the credits through the Department of Revenue (DOR). The PPT created a direct refund of up to \$25,000,000 in transferable tax credits per company each year. These transferable credits only arise when a company generates investment credit, but has insufficient production tax against which to take the credit.

Under HB 48, the ARMB would not be required to purchase the credits. However, if the ARMB purchased credits, it would be required to do so at 92% of the face value of the credit certificate. The opportunity to purchase a credit for \$0.92 and sell it for \$1.00 would result in an 8.69% $((\$1.00 - \$0.92) / \$0.92)$ return on investment. However, the annualized rate of return on investment would be considerably higher since funds for the purchase would only be utilized for a short time. Therefore, it is likely that investment staff would nearly always opt to purchase a credit.

STATUS:

HB 48 is currently being considered by the House Finance Committee. During the course of deliberations about the Bill, some committee members expressed a desire to know: (1) if the ARMB supports legislation that would include this tool in the ARMB investment toolbox; and (2) if the ARMB would favor pegging the transfer rate to the ARMB at 92%, or empowering the investment staff to negotiate the rate with potential sellers.

Staff assumes the ARMB would only be approached to purchase the credits if a taxpayer could not use the credit directly and the universe of potential buyers of the credit is extremely thin or non-existent. If the legislature empowers ARMB staff to negotiate each tax credit purchase, staff would have a fiduciary responsibility to purchase the credits at the lowest possible price.

Investment staff engages in the buying and selling securities on a daily basis. However, in most instances, staff is investing in markets with substantially more transparency than anticipated in this instance. From an annualized rate of return perspective, investment staff may find a purchase price higher than 92% attractive. However, without market transparency, staff would be reluctant to bid up the price without knowing there was in fact a higher bidder. Staff believes the ARMB should favor a set purchase rate of 92% for the credits based upon the assumptions that the purchased credits can be rapidly converted to cash and that the originator of the credit will bear any penalty for denial of the credit by DOR pursuant to a subsequent audit.

RECOMMENDATION:

That the Chair of the ARMB notify Representative Seaton in writing that the ARMB endorses the passage of HB 48 with a set discount rate of 92% for purchase of investment tax credits as a valuable tool to address PERS and/or TRS unfunded liabilities and/or contribution rates.

Alaska State Legislature

State Capitol, Room 102
Juneau, AK 99802
Phone: 465-2689
Fax: 465-3472
Toll Free (800) 665-2689
Representative Paul_Seaton@legis.state.ak.us



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Phone: 235-2921
Fax: 235-4008

Representative Paul Seaton
House District 35

HB 48 Sponsor Statement

HB 48 addresses the massive unfunded liability in the state retirement system by allowing the Alaska Management Retirement (ARM) Board to purchase transferable credits established under the Petroleum Profits Tax, and the Exploration Incentive Credit statute, and obtain reimbursement of the credits through the Department of Revenue (DOR). The ARM Board shall then apply the return on their investment against the state's unfunded liability.

Under HB 48 the ARM Board is not required to purchase the credits. However, if the ARM Board does purchase the credit, it must do so at a rate of 92% of the face value of the credit certificate.

The Petroleum Production Tax (PPT) directs the DOR to reimburse companies for 100% of the face value of their transferable tax credit certificates (AS 43.55.023 (f)). When the ARM Board reimburses their credit (purchased at 92%) though the DOR for 100% face value, the Board will realize an 8% return on their investment. This is close to the ARM Board's annual target rate of 8.25%. However, because the return under HB 48 is on short term instead of a yearly basis, the overall rate of return on the ARM Board portfolio is significantly improved.

HB 48 provides an additional benefit to small oil and gas companies. The PPT created a direct refund of up to \$25,000,000 in transferable tax credit per company each year. These transferable credits only arise when a company generates investment credit but has insufficient production tax against which to take the credit. This generally would be an exploration company before any production begins. Beyond that amount the credits are tradable and may be purchased and utilized to offset another company's PPT liability up to an annual limit of 20% of their tax liability. The explorers and small producers are concerned about the discount rate that they may be forced to accept for the transfer since the credits can only be applied to the PPT liability and there are few companies large enough (with enough tax liability under the PPT) to utilize the credits. In the past, 90% has been paid for similar credits, although with a limited pool of users this rate could fall to 70% or 80%. HB 48 would effectively set a "floor" on the discount rate at 92%, ensuring an equitable return for the companies actually making the investment in exploration.

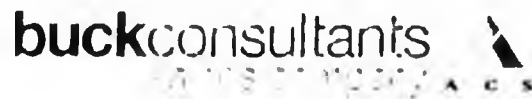
The language in HB 48 is permissive and does not require the DOR to incur a debt. Before the DOR reimburses the credit certificate the Commissioner must make the determination that the economic conditions are acceptable for the state to purchase the credit. Since the Commissioner of Revenue is a statutory member of the ARM Board the determination of the ability to get the face value reimbursement will be known by the Board before it takes action to purchase a transferable tax credit.

2/14/07



**State of Alaska
Public Employees'
Retirement System**

Actuarial Valuation Report as of June 30, 2005



Submitted By:
Buck Consultants
1200 Seventeenth Street, Suite 1200
Denver, CO 80202

Distributed by Rep. Paul Seaton
Back-up: HB 48

**1.5(e) Actuarial Projections – Effect of Economic Scenarios
Based on DB Only Payroll After July 1, 2006**

Key Assumptions

- All assumptions and methods are the same as Section 1.5(a) except
 - The actuarially calculated contribution rate with a two-year lag is adopted in each year beginning in FY08
 - Investment returns are assumed as follows:

Base Case:	8.25% for all future years
Optimistic:	9.00% for all future years
Pessimistic:	7.50% for all future years

Observations

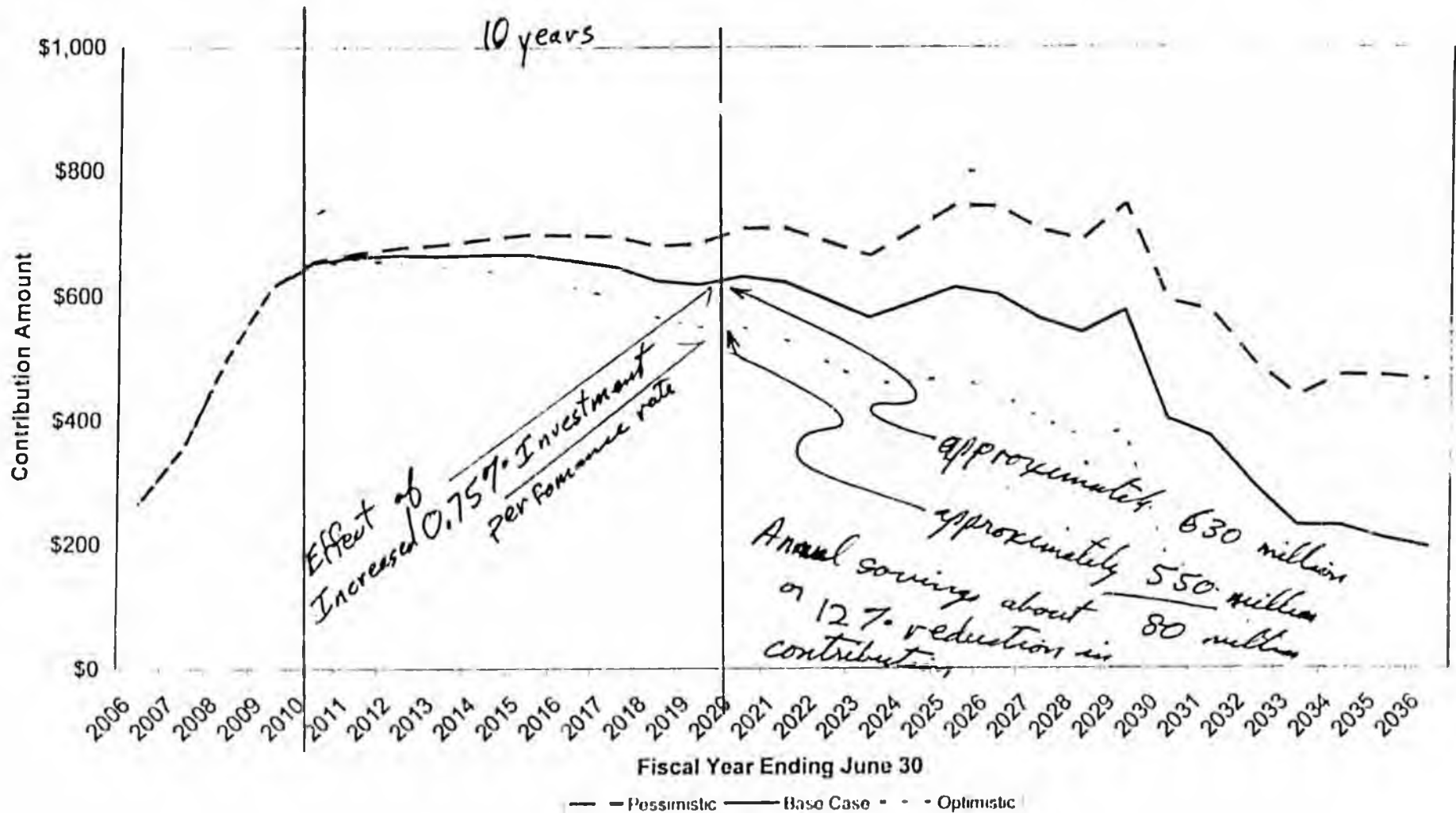
- In all cases, liabilities have been projected using 8.25% as the discount rate for future benefit payments. These scenarios are intended to illustrate the impact if investment rates are different than the 8.25% assumed investment return. They do not illustrate the effect of changing the assumed investment return for determining liabilities.

*Distributed by Rep. Paul Seaton
Back-Up: HB 48*

1.5(e) Actuarial Projections – Projections at Calculated Rate
Effect of Economic Scenarios
Based on DB Only Payroll After July 1, 2006 (continued)

Notations by Rep. Seaton to demonstrate the effect of increased return on ARM Board investment. The notations are not purporting to describe the size of the actual investment increase under HB 48.

Contribution Amounts

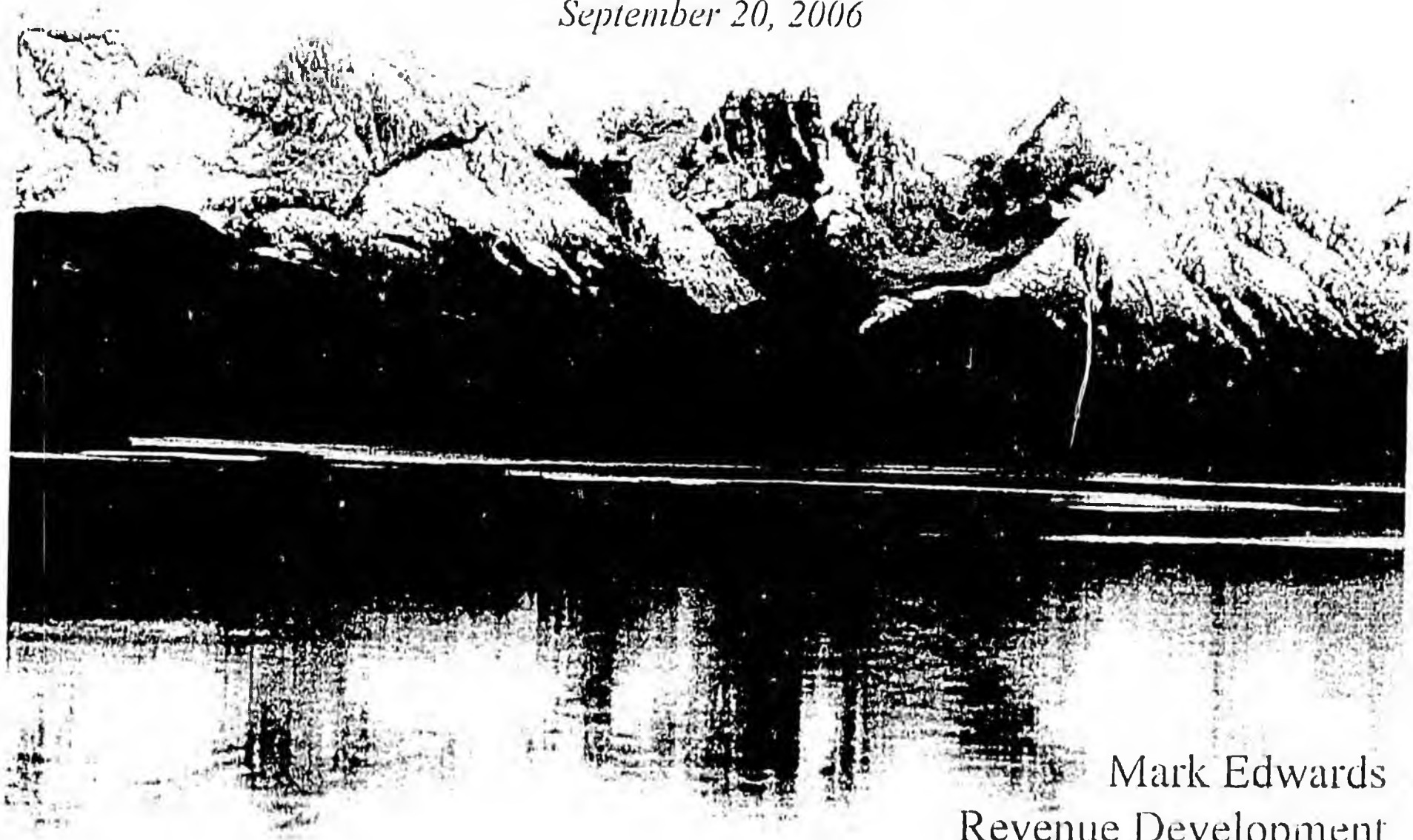


Distributed by Rep. Paul Seaton
Back up: HB 48

South Central Alaska Energy Forum

Taxes and Incentives

September 20, 2006



Mark Edwards
Revenue Development
Department of Revenue

Tradable Capital Investment Tax Credits - 43.55.023 (a) – (h)

- 20% tax credit for qualified capital expenditures
- Unused credit can be applied in future years And 20% Net Operating Loss
- Transferable and re-transferable with a certificate
- Producers of less than 50,000 BTU equivalent barrels per day can get a cash refund if they meet certain qualifications
- Flexible for a wide variety of circumstances, can be cashed out, traded or saved

Exploration Tax Credits

43.55.025

- Extends exploration tax credits six years to 2016
- 20% credit for exploration wells more than 3 miles from an existing well (C.I. deemed separate target)
- 20% for wells more than 25 miles from existing unit (10 miles for Cook Inlet)
- 40% credit if both conditions are met
- 40% credit for seismic operations not associated with a well

TRANSFERABLE CREDIT LANGUAGE UNDER THE PPT

Sec. 43.55.023 Tax credits for certain losses and expenditures.

(a) A producer or explorer may take a tax credit for a qualified capital expenditure as follows:

(1) notwithstanding that a qualified capital expenditure may be a deductible lease expenditure for purposes of calculating the production tax value of oil and gas under AS 43.55.160 (a), unless a credit for that expenditure is taken under AS 38.05.180 (i), AS 41.09.010, AS 43.20.043, or AS 43.55.025, a producer or explorer that incurs a qualified capital expenditure may also elect to take a tax credit against a tax due under AS 43.55.011 (e) in the amount of 20 percent of that expenditure;

(2) a producer or explorer may take a credit for a qualified capital expenditure incurred in connection with geological or geophysical exploration or in connection with an exploration well only if the producer or explorer provides to the department, as part of the statement required under AS 43.55.030 (a) for the calendar year for which the credit is sought to be taken, the producer's or explorer's written agreement

(A) to notify the Department of Natural Resources, before the later of 30 days after completion of the geological or geophysical data processing or completion of the well, or 30 days after the statement is filed, of the date of completion and to submit a report to that department describing the processing sequence and provide a list of data sets available;

(B) to provide to the Department of Natural Resources, within 30 days after the date of a request, specific data sets, ancillary data, and reports identified in (A) of this paragraph;

(C) that, notwithstanding any provision of AS 38, the Department of Natural Resources shall hold confidential the information provided to that department under this paragraph for 10 years following the completion date, after which the department shall publicly release the information after 30 days' public notice.

(b) A producer or explorer may elect to take a tax credit in the amount of 20 percent of a carried-forward annual loss. A credit under this subsection may be applied against a tax due under AS 43.55.011 (e). For purposes of this subsection, a carried-forward annual loss is the amount of a producer's or explorer's adjusted lease expenditures under AS 43.55.165 and 43.55.170 for a previous calendar year that was not deductible for that calendar year under AS 43.55.160 (b) and (c).

(c) A credit or portion of a credit under this section may not be used to reduce a person's tax liability under AS 43.55.011 (e) for any calendar year below zero, and any unused credit or portion of a credit not used under this subsection may be applied in a later calendar year.

(d) Except as limited by (i) of this section, a person entitled to take a tax credit under this section that wishes to transfer the unused credit to another person may apply to the department for a transferable tax credit certificate. An application under this subsection must be in a form prescribed by the department and must include supporting information and documentation that the department reasonably requires. The department shall grant or deny an application, or grant an application as to a lesser amount than that claimed and deny it as to the excess, not later than 60 days after the latest of (1) March 31 of the year following the calendar year in which the qualified capital expenditure or carried-forward annual loss for which the credit is claimed was incurred; (2) if the applicant is required under AS 43.55.030(a) to file a statement on or before March 31 of the year following the calendar year in which the qualified capital expenditures or carried-forward annual loss for which the credit is claimed was incurred, the date the statement was filed; or (3) the date the application was received by the department. If, based on the information then available to it, the department is reasonably satisfied that the applicant is entitled to a credit, the department shall issue the applicant a transferable tax credit certificate for the amount of the credit. A certificate issued under this subsection does not expire.

(e) A person to which a transferable tax credit certificate is issued under (d) of this section may transfer the certificate to another person, and a transferee may further transfer the certificate. Subject to the limitations set out in (a) - (c) of this section, and notwithstanding any action the department may take with respect to the applicant under (g) of this section, the owner of a certificate may apply the credit or a portion of the credit shown on the certificate only against a tax due under AS 43.55.011 (e). However, a credit shown on a transferable tax credit certificate may not be applied to reduce a transferee's total tax due under AS 43.55.011 (e) on oil and gas produced during a calendar year to less than 80 percent of the tax that would otherwise be due without applying that credit. Any portion of a credit not used under this subsection may be applied in a later period.

(f) Under standards established in regulations adopted by the department and subject to appropriations made by law, the department, on the written application of the person to whom a transferable tax credit has been issued under (d) of this section and whose average amount of oil and gas produced a day taxable under AS 43.55.011 (e) is not more than 50,000 BTU equivalent barrels a day for the preceding calendar year, shall issue a cash refund, in whole or in part, for the certificate if the department finds

(1) within 24 months after having applied for the transferable tax credit certificate, that the applicant incurred a qualified capital expenditure or was the successful bidder on a bid submitted for a lease on state land under AS 38.05.180 (1);

(2) that the amount of the refund would not exceed the total of qualified capital expenditures and successful bids described in (1) of this subsection that have not been the subject of a finding made under this paragraph for purposes of a previous refund;

(3) that the applicant does not have an outstanding liability to the state for unpaid delinquent taxes under this title; and

(4) that the sum of the amount of the refund applied for and amounts previously refunded to the applicant during the calendar year under this subsection would not exceed \$25,000,000.

(g) The issuance of a transferable tax credit certificate under (d) of this section or the issuance of a cash refund under (f) of this section does not limit the department's ability to later audit a tax credit claim to which the certificate relates or to adjust the claim if the department determines, as a result of the audit, that the applicant was not entitled to the amount of the credit for which the certificate was issued. The tax liability of the applicant under AS 43.55.011 (e) and 43.55.017 - 43.55.180 is increased by the amount of the credit that exceeds that to which the applicant was entitled, or the applicant's available valid outstanding credits applicable against the tax levied by AS 43.55.011 (e) are reduced by that amount. If the applicant's tax liability is increased under this subsection, the increase bears interest under AS 43.05.225 from the date the transferable tax credit certificate was issued. For purposes of this subsection, an applicant that is an explorer is considered a producer subject to the tax levied by AS 43.55.011 (e).

(h) Regulations adopted to implement this section must include provisions prescribing reporting, record keeping, and certification procedures and requirements to verify the accuracy of credits claimed and to ensure that a credit is not used more than once.

(i) For the purposes of this section,

(1) a producer's or explorer's transitional investment expenditures are the sum of the expenditures the producer or explorer incurred after March 31, 2001, and before April 1, 2006, that would be qualified capital expenditures if they were incurred after March 31, 2006, less the sum of the payments or credits the producer or explorer received before April 1, 2006, for the sale or other transfer of assets, including geological, geophysical, or well data or interpretations, acquired by the producer or explorer as a result of expenditures the producer or explorer incurred before April 1, 2006 that would be qualified capital expenditures, if they were incurred after March 31, 2006;

(2) a producer or explorer may elect to take a tax credit against a tax due under AS 43.55.011 (e) in the amount of 20 percent of the producer's or explorer's transitional investment expenditures, but only to the extent that the amount does not exceed 1/10 of the producer's or explorer's qualified capital expenditures that are incurred during the calendar year for which the credit is taken;

(3) a producer or explorer may not take a tax credit for a transitional investment expenditure

(A) for any calendar year after the later of

(i) 2013; or

(ii) the sixth calendar year after the calendar year for which the producer first applies a credit under this subsection against a tax due under AS 43.55.011 (e), if the producer did not have commercial production of oil or gas from a lease or property in the state before April 1, 2006;

(B) more than once; or

(C) if a credit for that expenditure was taken under AS 38.05.180(i), AS 41.09.010, AS 43.20.043, or AS 43.55.025;

(4) notwithstanding (d), (e), and (g) of this section, a producer or explorer may not transfer a tax credit or obtain a transferable tax credit certificate for a transitional investment expenditure.

(j) As a condition of receiving a tax credit under this section, a producer or explorer that obtains the tax credit for or directly related to a pipeline, facility, or other asset that is or becomes subject to regulation by the Federal Energy Regulatory Commission, the Regulatory Commission of Alaska, or a successor regulatory body shall at all times support and in all rate proceedings file to flow through 100 percent of the tax credits to ratepayers as a reduction in the costs of service for the pipeline, facility, or other asset.

(k) In this section, "qualified capital expenditure"

(1) means, except as otherwise provided in (2) of this subsection, an expenditure that is a lease expenditure under AS 43.55.165 and is

(A) incurred for geological or geophysical exploration; or

(B) treated as a capitalized expenditure under 26 U.S.C. (Internal Revenue Code), as amended, regardless of elections made under 26 U.S.C. 263(c)(Internal Revenue Code), as amended, and is

(i) treated as a capitalized expenditure for federal income tax reporting purposes by the person incurring the expenditure; or

(ii) eligible to be deducted as an expense under 26 U.S.C. 263(c)(Internal Revenue Code), as amended;

(2) does not include an expenditure incurred to acquire an asset (A) the cost of previously acquiring which was a lease expenditure under AS 43.55.165 or would have been a lease expenditure under AS 43.55.165 if it had been incurred after March 31, 2006; for purposes of this subparagraph, "asset" includes geological, geophysical, and well data and interpretations; or (B) that has previously been placed in service in the state; an expenditure to acquire an asset is not excluded under this paragraph if not more than an immaterial portion of the asset meets a description under this paragraph.

EXPLORATION INCENTIVE CREDIT

Sec. 43.55.025 Alternative tax credit for oil and gas exploration.

(a) Subject to the terms and conditions of this section, a credit against the production tax due under AS 43.55.011 (e) or (f) is allowed for exploration expenditures that qualify under (b) of this section in an amount equal to one of the following:

(1) 20 percent of the total exploration expenditures that qualify only under (b) and (c) of this section;

(2) 20 percent of the total exploration expenditures for work performed before July 1, 2007, and that qualify only under (b) and (d) of this section;

(3) 40 percent of the total exploration expenditures that qualify under (b), (c), and (d) of this section; or

(4) 40 percent of the total exploration expenditures that qualify only under (b) and (c) of this section.

(b) To qualify for the production tax credit under (a) of this section, an exploration expenditure must be incurred for work performed on or after July 1, 2003, and before July 1, 2016, except that an exploration expenditure for a Cook Inlet prospect must be incurred for work performed on or after July 1, 2005, and

(1) may be for seismic or geophysical exploration costs not connected with a specific well;

(2) if for an exploration well,

(A) must be incurred by an explorer that holds an interest in the exploration well for which the production tax credit is claimed;

(B) may be for either an oil or gas discovery well or a dry hole; and

(C) must be for goods, services, or rentals of personal property reasonably required for the surface preparation, drilling, casing, cementing, and logging of an exploration well, and, in the case of a dry hole, for the expenses required for abandonment if the well is abandoned within 18 months after the date the well was spudded;

(3) may not be for testing, stimulation, or completion costs; administration, supervision, engineering, or lease operating costs; geological or management costs; community relations or environmental costs; bonuses, taxes, or other payments to governments related to the well; or other costs that are generally recognized as indirect costs or financing costs; and

(4) may not be incurred for an exploration well or seismic exploration that is included in a plan of exploration or a plan of development for any unit on May 13, 2003.

(c) To be eligible for the 20 percent production tax credit authorized by (a)(1) of this section or the 40 percent production tax credit authorized by (a)(3) of this section, exploration expenditures must

(1) qualify under (b) of this section; and

(2) be for an exploration well, subject to the following:

(A) for an exploration well other than a well that is described in (B) of this paragraph, the well must be located and drilled in such a manner that the bottom hole is located not less than three miles away from the bottom hole of a preexisting suspended, completed, or abandoned oil or gas well; in this subparagraph, "preexisting" means a well that was spudded more than 150 days but less than 35 years before the exploration well was spudded;

(B) for an exploration well that explores a Cook Inlet prospect, the well must be located at least three miles from any other well drilled for oil and gas with all distances measured as the horizontal distance between exploration targets, except that the exploration well that is located within three miles of a well drilled for oil and gas qualifies for the tax credit authorized by this subsection if the exploration well tests potential hydrocarbon traps that the commissioner of natural resources determines, after analyzing evidence submitted by the explorer and from other information that the commissioner of natural resources determines relevant, constitute a distinctly separate exploration target.

(d) To be eligible for the 20 percent production tax credit authorized by (a)(2) of this section or the 40 percent production tax credit authorized by (a)(3) of this section, an exploration expenditure must

(1) qualify under (b) of this section; and

(2) be for an exploration well that is located not less than 25 miles outside of the outer boundary, as delineated on July 1, 2003, of any unit that is under a plan of development, except that for an exploration well for a Cook Inlet prospect to qualify under this paragraph, the exploration well must be located not less than 10 miles outside the outer boundary, as delineated on July 1, 2003, of any unit that is under a plan of development.

(e) To be eligible for the 40 percent production tax credit authorized by (a)(4) of this section, the exploration expenditure must

(1) qualify under (b) of this section;

(2) be for seismic exploration; and

(3) have been conducted outside the boundaries of a production unit or an exploration unit; however, the amount of the expenditure that is otherwise eligible under this subsection is reduced proportionately by the portion of the seismic exploration activity that crossed into a production unit or an exploration unit.

(f) For a production tax credit under this section,

(1) an explorer shall, in a form prescribed by the department and within six months of the completion of the exploration activity, claim the credit and submit information sufficient to demonstrate to the department's satisfaction that the claimed exploration expenditures qualify under this section;

(2) an explorer shall agree, in writing,

(A) to notify the Department of Natural Resources, within 30 days after completion of seismic or geophysical data processing, completion of a well, or filing of a claim for credit, whichever is the latest, for which exploration costs are claimed, of the date of completion and submit a report to that department describing the processing sequence and providing a list of data sets available; if, under (c)(2)(B) of this section, an explorer submits a claim for a credit for expenditures for an exploration well that is located within three miles of a well already drilled for oil and gas, in addition to the submissions required under (1) of this subsection, the explorer shall submit the information necessary for the commissioner of natural resources to evaluate the validity of the explorer's claim that the well is directed at a distinctly separate exploration target, and the commissioner of natural resources shall, upon receipt of all evidence sufficient for the commissioner to evaluate the explorer's claim, make that determination within 60 days;

(B) to provide to the Department of Natural Resources, within 30 days after the date of a request, specific data sets, ancillary data, and reports identified in (A) of this paragraph;

(C) that, notwithstanding any provision of AS 38, information provided under this paragraph will be held confidential by the Department of Natural Resources for 10 years following the completion date, at which time that department will release the information after 30 days' public notice;

(3) if more than one explorer holds an interest in a well or seismic exploration, each explorer may claim an amount of credit that is proportional to the explorer's cost incurred;

(4) the department may exercise the full extent of its powers as though the explorer were a taxpayer under this title, in order to verify that the claimed expenditures are qualified exploration expenditures under this section; and

(5) if the department is satisfied that the explorer's claimed expenditures are qualified under this section, the department shall issue to the explorer a production tax credit certificate for the amount of credit to be allowed against production taxes due under AS 43.55.011(e) or (f).

(g) An explorer may transfer, convey, or sell its production tax credit certificate to any person, and any person who receives a production tax credit certificate may also transfer, convey, or sell the certificate.

(h) A producer that purchases a production tax credit certificate may apply the credits against its production tax liability under AS 43.55.011(e) or (f). Regardless of the price the producer paid for the certificate, the producer may receive a credit against its production tax liability for the full amount of the credit, but for not more than the amount for which the certificate is issued. A production tax credit allowed under this section may not be applied more than once.

(i) For a production tax credit under this section,

(1) the amount of the credit that may be applied against the production tax for each calendar year may not exceed the total production tax liability under AS 43.55.011 (e) or (f) of the taxpayer applying the credit for the same calendar year; and

(2) an amount of the production tax credit that is greater than the total tax liability under AS 43.55.011 (e) or (f) of the taxpayer applying the credit for a calendar year may be carried forward and applied against the taxpayer's production tax liability under AS 43.55.011(e) or (f) in one or more immediately following calendar years.

(j) Notwithstanding any other provision of this title, of AS 31.05, or of AS 40.25.100, the department shall provide to the Department of Natural Resources information submitted with a claim under this section to support the eligibility of an exploration expenditure, including seismic exploration data and well data, and any information described in (f)(2) of this section received by the department.

(k) In this section,

(1) *[Repealed, Sec. 34 ch 2 TSSLA 2006]*.

(2) "Cook Inlet prospect" means a location within the Cook Inlet sedimentary basin, as that term is defined by regulation adopted to implement AS 38.05.180 (f)(4);

(3) *[Repealed, Sec. 34 ch 2 TSSLA 2006]*.

OIL AND GAS PRODUCTION TAXES

AS 43.56

Description

Alaska imposes the production tax on all oil and gas produced in Alaska. The Oil and Gas Production Tax and the Conservation Surcharge on Oil are severance taxes.

Rate

The rate of taxation for oil varies depending on the age of the field and the economic limit factor (ELF) which varies depending on field size and well productivity.

The severance tax rate on oil is 12.25% of production value as determined at the point of production, for the first five (5) years of production and 15% thereafter. There is a minimum tax of \$0.80/bbl.

Both the percent of value and the cents per barrel tax rates are subject to the ELF. The effective tax rate is the appropriate tax rate multiplied by the ELF.

The ELF formula results in lower tax rates for smaller, low productive fields and higher tax rates for larger highly productive fields. The formula is difficult to characterize in a simple way because it is based on a fraction that is calculated using fractional exponents and is unique for every combination of field size and well productivity. A field that produces 300 bbl/day per well or less has an ELF of zero i.e. no severance taxes are assessed.

On January 12, 2005 the Tax Division issued a decision to aggregate certain Prudhoe Bay area oil fields for purposes of calculating the economic limit factor (ELF). The Prudhoe Bay Initial participating area, the Aurora, the Borealis, the Midnight Sun, the Orion, the Polaris, and the Point McIntyre participating areas are the fields that were aggregated under this decision. That decision was effective for oil produced on or after February 12, 2005. The decision has been appealed by the taxpayers.

The table below reflects the aggregated Prudhoe Bay area ELF. In Fiscal Year 2005, four of Alaska's North Slope 24 producing fields had an ELF higher than 0.1:

Field	ELF	FY05 Tax Rate
Prudhoe	843033	12.6455%
North Star	834275	10.2199%
Alpine	829133	10.1569%
Kuparuk	050742	00.7611%
Tarn	009742	00.1461%

The 3 largest fields account for 94% of all production tax revenues

The severance tax rate on gas is 10% of production value. There is a minimum tax of \$0.064/mcf. The gas severance tax rate is also subject to an ELF based on daily gas production per well.

Returns

Returns are filed monthly and due with payment of taxes on or before the 20th day of the month following the month of production.

Exemptions

The tax on oil is levied on all production except for public (government) royalty production. The tax on gas is levied on all production except for public (government) royalty production and gas used in production operations including enhanced recovery, or flared for safety purposes.

Credits

Education - Taxpayers making contributions to accredited Alaska universities or colleges for educational purposes may take a tax credit for 50% of the first \$100,000, 100% of the next \$100,000 of contributions with a maximum credit of \$150,000 per tax year.

Oil and Gas Exploration Incentive - There are two exploration credits available to the producers. The first "Oil and Gas Exploration Incentive" is approved by the commissioner of Department of Natural Resources, and the second "Oil and Gas Exploration Tax Credit" is approved by the Department of Revenue. A producer may claim either one, but not both.

Taxpayers may take a credit for up to 50% on state land (or 25% on non state lands) of oil and gas exploration costs approved by the commissioner of Natural Resources. An approved oil and gas exploration incentive credit may not exceed \$5 million per project and is limited to \$30 million per taxpayer. Taxpayers may apply the credit against 100% of oil and gas production taxes.

Oil and Gas Exploration Tax Credit - Explorers may take a credit against their production taxes of (1) 20% of allowable expenses for exploration wells drilled more than 3 miles from a preexisting well, (2) 20% of allowable expenses for exploration wells drilled more than 25 miles from the boundary of a unit or (3) 40% of allowable expenses for certain seismic work and for exploration wells that meet both condition (1) and (2). Once approved, the credit or any remaining portion of it can be either carried forward month to month until fully applied, or sold to another taxpayer

OIL AND GAS PRODUCTION TAXES

AS 43.56

To qualify the work must have been performed between July 1, 2003 and July 1, 2007. However the credits could not be applied until after July 1, 2004 (i.e. in FY 2005).

The legislature extended the time until July 1, 2010 for qualifying work south of the Brooks Range and including the Alaska Peninsula and Bristol Bay, the Nenana Basin the Red Dog Mine Area, the Healy Basin and Cook Inlet. The new rules also changed the 3 mile and 25 mile rules for the Cook Inlet to reflect a more mature exploration area.

The table below reports the credits issued under the program through September 30, 2005:

Area	Project	Number of Projects	Credits Issued
<i>20 % Credits Issued</i>			
Cook Inlet	Wells	1	\$392,293
North Slope	Wells	3	\$3,588,666
<i>Total 20 % credits issued</i>		4	\$3,980,959
<i>40 % Credits Issued</i>			
Cook Inlet	Seismic	1	\$754,619
Cook Inlet	Wells	0	\$0
North Slope	Seismic	0	\$0
North Slope	Wells	1	\$719,482
<i>Total 40 % credits issued</i>		2	\$14,74,101
<i>Total credits issued (through 9/30/05)</i>		6	\$14,455,060

Disposition of Revenue

All revenue derived from the Oil and Gas Production Tax is deposited in the General Fund except that payments received as a consequence of an assessment are deposited in the Constitutional Budget Reserve Fund (CBRF).

History

1955 – The legislature enacts an oil and gas production tax of 1% of production value.

1967 – A 1% disaster production tax is enacted to provide relief after the Fairbanks flood.

1968 – The legislature increases oil and gas production tax from 1% to 3% of production value.

1970 – The legislature repeals the disaster oil and gas production tax. The legislature changes the oil production tax to a graduated tax with rates of 3% on the first 300 barrels per day per well, 5% on the next 700 barrels per day per well, 6% on the next 1500 barrels

per day and 8% on production exceeding 2500 barrels per day per well.

1972 – The legislature establishes a minimum oil production tax based on "cents per barrel" equivalent to percent of value tax on oil with wellhead value of \$2.65 per barrel.

1973 – The legislature revises the "stairstep" rate schedule to lower production levels. The legislature indexes the cents per barrel minimum to the wholesale price index for crude oil published by the US Bureau of Labor Statistics.

1977 – The legislature raises the nominal gas production tax rate to 10%. The legislature raises the nominal oil production tax rate to 12.25% and adopts the oil and gas economic limit factors.

1981 – As part of legislation that repealed the separate accounting oil and gas corporation income tax, the nominal tax rate on oil produced prior to 1981 was raised to 15% and fields coming into production after 1981 are taxed at 12.25% for five years after which the rate increases to 15%. The oil economic limit factor is now subject to a rounding rule so that if the calculated factor is greater than or equal to 0.7 during the first 10 years of production, the factor is set to 1.0.

1989 – The legislature changes the economic limit factor for oil production taxes to include a field size factor in the formula, fixes the production at the economic limit (not rebuttable) at 300 barrels per well per day, and drops the rounding rule. The legislature fixes production at the economic limit for gas production at 3000 mcf per well per day.

2002 - Alaska Veterans' Memorial Endowment, SB 267, provides credits of up to 50% for contributions of not more than \$100,000 and 75% of the next \$100,000 in contributions made to the Veterans' Memorial Endowment Fund. The tax credit expired July 1, 2003.

2003 – To encourage drilling for oil and gas within the state, AS 43.55.025 provided a new tax credit for exploration costs. The minimum credit is 20% and the maximum 40% for qualified expenditures.

2005 - Prudhoe Bay area oil fields are aggregated for purposes of calculating the economic limit factor, effective February 1, 2005.

2005 – To expand the exploration credit enacted the previous year, the deadline was extended until July 1, 2010 for qualifying work south of the Brooks Range (i.e. non-North Slope). New rules also changed the 3 mile and 25 mile rules for the Cook Inlet allowing closer

HB

48

SFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: CSHB 48(FIN)
 (H) Publish Date: 3/7/07

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue 04
 Title: Retirement Board Purchase PPT Credits RDU: Taxation and Treasury
 Component: Tax Division
 Sponsor: Representatives Seaton, Kelly
 Requester: (H) State Affairs Component No.: 2476

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

*This bill would authorize the Alaska Retirement Management Board (ARM) to purchase transferable tax credit certificates issued under AS 43.55.023 and AS 43.55.025 for 92 percent of the face value of the certificates. The ARM board would then sell the certificates to the Department of Revenue for the full face value of the certificates, unless the commissioner of the Department of Revenue determines that economic conditions are not acceptable for the state to purchase and pay for the certificates. The proceeds of these sales would be used by the ARM board to defray the unfunded pension liabilities for which the board is responsible.

Alaska Statutes 43.55 currently offers three clearly identifiable means of obtaining and selling tax credits for petroleum exploration activity and other capital costs relating to petroleum production.

Prepared by: Brian Andrews, Cherio Nionhuis and Roger Marks Phone: 465-2300
 Division: Treasury and Tax Date/Time: 2/13/07 10:00 AM
 Approved by: Jerry Burnett Date: 2/14/2007
 Agency: Department of Revenue

FISCAL NOTE #3

STATE OF ALASKA
2007 LEGISLATIVE SESSION

BILL NO. CSHB 48(FIN)

ANALYSIS CONTINUATION

AS 43.55.025, known as the Exploration Incentive Credit, offers tax credits for either 20% or 40% of exploration expenditures incurred before July 1, 2016. The certificates issued under this program can be carried forward or transferred. Current statutes allow these credit certificates to be sold to other taxpayers; there is no provision for the state to buy credit certificates generated under AS 43.55.025 directly from the explorer to which the credit was originally issued.

Tax credits generated under AS 43.55.023, through excess capital expenditures or net losses, can also be carried forward or transferred. Current statutes allow these credit certificates to be sold to (1) other taxpayers (AS 43.55.023(e)), or (2) to the state Department of Revenue (AS 43.55.023(f)).

Although there are qualifying criteria for the state's purchase of credit certificates at AS 43.55.023(f), there are no restrictions on the amount to be paid for the certificates (other than the maximum refund per taxpayer of \$25 million per year), and it is assumed that the state would pay full face value for the certificates. There are also no restrictions on the amount other taxpayers can pay for the certificates, although it is assumed they would pay less than face value and current statutes limit the amount transferred certificates can reduce a taxpayer's liability to 20 percent per year.

Given the three options and their qualifying criteria, it is difficult to assess which program certificate holders will favor. Were the expenditures to qualify under the EIC 40% credit program, then it is likely that would be the first choice. As of December 31, 2006, the EIC program issued credits totaling \$34.7 million dollars over the 3.5 years since the program's inception; additional applications are pending approval by the department. If all the credits issued were sold to the ARM board for 92% of the face value and resold to the Department of Revenue, the total generated for the ARM board over the period would have been approximately \$2.8 million.

Alternatively, should the expenditures qualify only for the 20% credit, then it is likely that the certificates would be transferred to the highest bidder. The highest bidder could be another taxpayer, the state Department of Revenue, or, under this bill, the ARM board.

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 48(FIN)
(H) Publish Date: 3/7/07

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title: An Act amending the powers of the ARMB to RDU: Centralized Administrative Services
authorize purchase and sale of tax credit certificates. Component: Retirement and Benefits
Sponsor: Representatives Seaton
Requester: House Finance Component No.: 64

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill grants authority to the Alaska Retirement Management Board (ARMB) to purchase transferable tax credit certificates issued under AS 43.55.023 for 92% of the face value of the certificate and then sell the tax credit certificates to the Department of Revenue under AS 43.55.023(f) for the full face value of the certificate. Proceeds of the sale of tax credit certificates will be applied to the unfunded pension liability of the defined benefit retirement plans for which the board has responsibility. The bill will have no financial impact on the administration of the plans by the DividiRB and result in a zero fiscal note.

Prepared by: Melanie Millhorn, Director
Division: Division of Retirement and Benefits
Approved by: Rachael Petro, Deputy Commissioner
Agency: Department of Administration

Phone: 465-4817
Date/Time: 3/6/2007 10:30am
Date: 3/6/07 11:15am

HB

49

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: February 19, 2007

FURTHER REFERRALS:

Date of Committee Action: 3/25/08

The FINANCE Committee considered:

HB 49

HOUSE BILL NO. 49

GIFT CARDS

"An Act relating to credit memos, gift certificates, and gift cards, and to unclaimed property; and making a violation of certain gift card prohibitions an unlawful trade practice."

Recommends it be replaced with HCS or CS for HB 49 (FIN)
 For Senate Bills with new title: Technical Title New Title; HCR _____ Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts:
 ADM
 CED
 COR
 CRT
 EED
 DEC
 DFG
 GOV
 HSS
 LWF
 LAW
 LEG
 MVA
 DNR
 DPS
 REV
 DOT
 UA

<u>NEW</u> FISCAL NOTES				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
REV				✓
LAW				✓

<u>PREVIOUS</u> FISCAL NOTES				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
<i>Winters</i>	Thayer	✓			
<i>Rice</i>	Joule			X	
<i>Ball</i>	Storto			X	
<i>Winters</i>	Kelly			X	
Chair: <i>Le Mer</i>	Meyer			X	
Chair: <i>Chewalt</i>	Chewalt			X	

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: HB049CS(L&C)-LAW-CIV-03-24-08
 Bill Version: CSHB049(L&C)
 () Publish Date: _____

Identifier (file name): _____ Dept. Affected: LAW
 Title An Act relating to credit memos, gift certificates, and gift cards. RDU Civil
 Component Commercial & Fair Business
 Sponsor REPRESENTATIVE(s) GATTO
 Requester HOUSE FINANCE Component Number _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES								
-----------------------------	--	--	--	--	--	--	--	--

CHANGE IN REVENUES ()								
-------------------------------	--	--	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: 0.0

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

The bill would amend existing and establish new statute to regulate the sale, transfer and ultimate disposition of gift cards. The bill would also make violation of certain gift card prohibitions an unlawful trade practice. The department does not anticipate any significant fiscal impact.

Prepared by: Robert Meiners, Administrative Services Manager
 Division: Administrative Services Division
 Approved by: Talis Colberg, Attorney General
Department of Law

Phone 907-465-5427
 Date/Time 3/24/08 7:37 AM
 Date 3/24/2008

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CS HB 49(L&C)
() Publish Date: _____

Identifier (file name): CSHB49(L&C)-DOR-TAX-3-21-08 Dept. Affected: Revenue 04
Title: Gift Cards RDU: Taxation and Treasury
Sponsor: Gallo Component: Tax Division
Requester: House Finance Component Number: 2476

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING		0.0	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES		0.0	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()		0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: 0.0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

See attached.

Prepared by: Rachel Lewis and Nels Tomlinson
Division: Tax Division
Approved by: Jerry Burnett
Department of Revenue

Phone: (907) 465-5885
Date/Time: 3/21/08 7:30 AM
Date: March 21, 2008

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

BILL NO. CS HB 49(L&C)

ANALYSIS CONTINUATION

Bill Language: This bill would redefine gift cards, using the new definition from AS 45.45.940. It would clarify that gift cards become unclaimed property after three years. It would remove expiration dates from gift cards. It would also add other conditions under which gift cards could be sold, and would make violating any of these conditions an unlawful trade practice

Revenues: This bill will have no significant effect on revenue. Over the past 22 years, very little money from unclaimed gift cards has been turned over to the Department of Revenue's Unclaimed Property Unit, and a total of \$50,000 of that money has been deposited in the general fund in that period. The Department anticipates that in the future, contributions to the general fund from this source will continue close to the long-term average of approximately \$2,300 per year.

This bill may make businesses more aware of the need to turn over unclaimed gift cards to the Department. However, any increase in revenues to the general fund which might result is anticipated to be a small fraction of the current \$2,300 yearly average, and hence negligible.

Fines and forfeitures from unlawful trade practice enforcement related to gift cards are unknown.

Expenditures: It is not anticipated that this bill will result in any additional expenditures for the Department of Revenue. The current volume of unclaimed gift cards reported to the Unclaimed Property Unit is quite small, and the Department does not anticipate appreciable change in their workload stemming from this bill.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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FAX (907) 465-2029
Mail Stop 3101


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 25, 2008

SUBJECT: CSHB 49(FIN) relating to gift cards
(Work Order No. 25-LS0263(O))

TO: Representative Mike Chenault
Representative Kevin Meyer
Co-chairs of the House Finance Committee
Attn: Shar Smith

FROM:  Theresa Bannister
Legislative Counsel

This memo accompanies the bill described above.

1. Federal preemption. Please be aware that the federal laws that govern national financial institutions may preempt this bill as it applies to national financial institutions and their agents.¹
2. Interstate commerce. Because this bill could apply to out-of-state businesses that issue gift cards this application to interstate commerce raises a constitutional interstate commerce issue. Whenever a bill establishes a requirement that may affect persons operating from another state, there is always a question whether the requirement places a burden on interstate commerce that would not satisfy the federal constitutional commerce clause. Unless the burden it imposes on interstate commerce is clearly excessive in relation to the anticipated local benefits, the requirement is likely to be valid under the commerce clause. I do not have enough information to evaluate the burden that this bill will impose.

If I may be of further assistance, please advise.

TLB:med
08-221.med

Enclosure

¹ See APGGC v. Ayotte, 488 F.3d 525 (1st Cir. 2007).

3/25/08 adopted

25-LS0263NL
Bannister
3/19/08

CS FOR HOUSE BILL NO. 49()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES GATTO, GARDNER, SEATON AND GRUENBERG, Crawford, Gara

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to gift certificates and gift cards, and to unclaimed property; and
2 making a violation of certain gift card prohibitions an unlawful trade practice."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 * Section 1. AS 34.45.240 is amended to read:

5 Sec. 34.45.240. Gift cards [CERTIFICATES] and credit memos. (a) A gift
6 card [CERTIFICATE] or a credit memo, issued in the ordinary course of an issuer's
7 business, that remains unclaimed by the owner for more than three years after
8 becoming payable or distributable is presumed abandoned.

9 (b) In the case of a gift card [CERTIFICATE], the amount presumed
10 abandoned is the balance remaining on [PRICE PAID BY THE PURCHASER FOR]
11 the gift card [CERTIFICATE]. In the case of a credit memo, the amount presumed
12 abandoned is the amount credited to the recipient of the memo.

13 * Sec. 2. AS 34.45.760(8) is amended to read:

14 (8) "gift card [CERTIFICATE]" has the meaning given in

1 AS 45.45.940 [MEANS AN OBLIGATION OF A BUSINESS ASSOCIATION
2 ARISING FROM A TRANSACTION BETWEEN THE BUSINESS ASSOCIATION
3 AND A CONSUMER TO PROVIDE GOODS OR SERVICES AT A FUTURE
4 DATE; "GIFT CERTIFICATE" INCLUDES A GIFT CERTIFICATE, STORED
5 VALUE CARD, GIFT CARD, ON-LINE GIFT ACCOUNT, OR OTHER
6 REPRESENTATION OR EVIDENCE OF THE OBLIGATION OF A BUSINESS
7 ASSOCIATION];

8 * Sec. 3. AS 34.45.760(11) is amended to read:

9 (11) "intangible property"

10 (A) includes

11 (i) money, checks, drafts, warrants, deposits, interest,
12 dividends, and income;

13 (ii) credit balances, customer overpayments, gift cards
14 [CERTIFICATES], security deposits, refunds, credit memos, unpaid
15 wages, and unidentified remittances;

16 (iii) stocks and other intangible equity interests in
17 business associations;

18 (iv) money deposited to redeem stocks, bonds, coupons,
19 and other securities, or to make distributions;

20 (v) amounts due and payable under the terms of
21 insurance policies;

22 (vi) amounts distributable from a trust or custodial fund
23 established under a plan to provide health, welfare, pension, vacation,
24 severance, retirement, death, stock purchase, profit-sharing, employee
25 savings, supplemental unemployment insurance, or similar benefits;
26 and

27 (vii) amounts due and payable as mineral proceeds;

28 (B) does not include

29 (i) unused airline tickets;

30 (ii) shares of stock issued by a corporation organized
31 under 43 U.S.C. 1601 et seq. (Alaska Native Claims Settlement Act) or

1 unclaimed dividends payable on the shares of stock; or

2 (iii) overpaid contributions by employers to the
3 unemployment compensation fund under AS 23.20.130;

4 * Sec. 4. AS 45.45 is amended by adding a new section to article 12 to read:

5 Sec. 45.45.940. Gift cards. (a) A person may not sell or offer to sell a gift card
6 unless the

7 (1) gift card is redeemable at full face value in perpetuity; and

8 (2) gift card's date of issuance is clearly

9 (A) identified on the face of the gift card; or

10 (B) printed, if the gift card is an electronic card with a banked
11 dollar value, on a sales receipt transferred to the buyer or another holder of the
12 electronic card or available through an Internet site or a toll-free telephone line.

13 (b) A person may not sell or offer to sell a gift card that imposes dormancy
14 fees, latency fees, administrative fees, periodic fees, service fees, or other fees that
15 have the effect of reducing the total amount for which the holder may redeem a gift
16 card.

17 (c) This section does not apply to a gift card that

18 (1) is distributed by the issuer of the gift card under an awards, loyalty,
19 or promotional program if the recipient does not give the issuer money or another
20 thing of value in exchange for the gift card;

21 (2) is donated to a nonprofit organization or a charitable organization
22 for fundraising purposes; or

23 (3) can be used to purchase goods or services from more than one
24 seller of goods or services.

25 (d) In this section,

26 (1) "device" includes an electronic card, but does not mean an access
27 number or authorization code, whether manually or electronically dialed, to make
28 calls;

29 (2) "gift card" means a device that is usable up to its face amount
30 instead of cash in exchange for goods or services, except telephone services, supplied
31 by a seller.

1
2

* Sec. 5. AS 45.50.471(b) is amended by adding a new paragraph to read:
(53) violating AS 45.45.940 (gift cards).

Alaska State Legislature

Interim:

600 E. Railroad Ave
Wasilla, AK 99654

Phone: (907) 376-3725

Fax: (907) 376-4768

**Session:**

Alaska State Capitol, Rm 108
Juneau, AK 99801-1182

Phone: (907) 465-3743

Fax: (907) 465-2381

Toll Free: (800) 565-3743

Rep. Carl Gatto@legis.state.ak.us

Representative Carl Gatto
Co-Chair, House Resources Committee
District 13 - Palmer

SECTIONAL ANALYSIS CSHB 49(L&C)

"An Act relating to credit memos, gift certificates, and gift cards, and to unclaimed property; and making a violation of certain gift card prohibitions an unlawful trade practice."

Section 1 – Amends AS 34.45.240 to replace the original reference of “gift certificate” with “gift card” and provides conforming amendments to the original statutes structure based on this change.

Section 2 – Amends AS 34.45.760(8) to provide a definitional reference for the new definition of “gift card” as found in AS 45.45.940.

Section 3 – Amends AS 34.45.760(11) to add “gift cards” as “intangible property” and provides the statutory definitional reference for gift cards.

Section 4 – Creates a new subsection under AS 45.45 to properly define “gift cards” and the new definition covers previous references to “gift certificate”. This new section also identifies exclusions to the applicability of the new gift card provisions.

Section 5 – Adds a reference to “gift cards” to unlawful acts and practices under AS 45.50.471.

Alaska State Legislature

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Session:
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Representative Carl Gatto
Co-Chair, House Resources Committee
District 13 - Palmer

SPONSOR STATEMENT CSHB 49 (L&C)

"An Act relating to credit memos, gift certificates, and gift cards, and to unclaimed property; and making a violation of certain gift card prohibitions an unlawful trade practice."

Retailers and banks have been offering electronic "gift cards" in response to growing consumer demand for easier and more convenient gift options. Similar to a credit or debit card, these electronic gift cards allow recipients the flexibility to use the card at multiple locations. Most banks and retailers that issue these types of credit devices allow gift givers to choose from amounts as low as \$10 and as high as \$1,000.

Unfortunately, some banks and retailers have used this new opportunity to erode the purchasing power of gift cards by attaching a variety of fees and service charges, often failing clearly explain these provisions to purchasers and recipients. Commonly, issuers will attach a "dormancy fee" of \$2.50 or greater that is deducted monthly from the remaining balance as well as an "activation fee" of \$5 or more in order to begin using the card. A \$100 gift card would lose 35% of its value in one calendar year without making one purchase. Lastly, some of the issuers include expiration dates less than Alaska's unclaimed property laws.

In the last 5 years a number of states have adopted measures to limit or restrict fees attached to these gift cards as well as establish standard expiration periods allowing consumers a reasonable period to use their gift cards. HB 49 is modeled closely after Massachusetts statute that was adopted in 2002 and amended in 2003 and it is one of the most restrictive state laws in the country.

HB 49 will protect Alaska's consumers from unnecessary fees and prevent erosion of purchasing power. I urge your support of HB 49.

Alaska State Legislature

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Session:
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Juneau, AK 99801-1182

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Rep. Carl Gatto @ legis.state.ak.us

Representative Carl Gatto
Co-Chair, House Resources Committee
District 13 - Palmer

EXPLANATION OF CHANGES CSHB 49(L&C)

25-LS0263\K

"An Act relating to credit memos, gift certificates, and gift cards, and to unclaimed property; and making a violation of certain gift card prohibitions an unlawful trade practice."

Section 1 – Amends AS 34.45.240 to alter the original reference of “gift certificate” to “gift card” pursuant to the new definition contained in the bill.

Section 2 – Amends AS 34.45.760(8) to reference the “gift card” definition found in AS 45.45.940.

Section 3 – Amends AS 34.45.760(11) to add “gift cards” to the list of items included under intangible property.

Section 4 – Substantially alters provisions of “gift cards” from the previous version (25-LS0263\C) by stipulating:

- 1) Gift cards have no expiration date (page 3, line 7); and
- 2) Redemption/refund requirement for remaining balances has been removed.
- 3) Excluding gift cards that awarded under a loyalty or promotional program, cards donated to a nonprofit organization, and “open universe” cards that may be used at multiple retailers (page 3, lines 18-24);
- 4) The definition of “device” has been refined to clarify that this section or the definitions contained therein do not apply telephone calling cards.
- 5) The definition of “gift cards” has been altered to remove the reference to the “purchaser” or “recipient” and to further stipulate that this does not apply to telephone calling cards

Consumers Union

Nonprofit Publisher
of Consumer Reports

State Gift Card Consumer Protection Laws*

California:

- No expiration dates and no fees, with one exception.
- Permits a \$1 per month fee only when the card has a balance of \$5 or less, the card has been unused for 24 months, and the card is reloadable.
- Covers gift cards usable at a single store or chain. Multiple-use gift cards are not covered.

Connecticut:

- No expiration dates.
- No inactivity fees.

Hawaii:

- No expiration within the first two years.
- No fees.
- Effective July 1, 2005.

Illinois:

- Before Jan. 1, 2005, cards which do not have an expiration fee do not escheat to the state.
- Starting Jan. 1, 2005, cards must also have no service fees in order to avoid escheat.

Iowa

- No fees unless there is a written contract between the card issuer and the holder of the gift card.

Louisiana:

- No expiration dates shorter than five years.
- No service fees, except for a one-time handling fee of \$1.
- Covers cards issued to be redeemed in goods or services provided by the card seller.

Maine:

- No expiration dates.
- No fees unless printed on the card, allowed by written contract with the card owner, and not unconscionable.

Massachusetts:

- No expiration for the first seven years.
- Attorney General has stated that inactivity fees violate the state's rule against expiration within the first seven years.

Maryland:

- No expiration for the first four years.
- No fees for the first four years.
- Fees that do apply after the first four years must be disclosed on the certificate or card, attached sticker, or envelope, and may not be changed except to benefit the consumer.
- Does not apply to cards processed through a national debit or credit card service that are usable at multiple unaffiliated sellers of goods or services.
- Effective July 1, 2006

New Hampshire:

- For gift cards over \$100, no expiration earlier than the date the funds escheat to the state.
- For gift cards of \$100 or less, no expiration dates.

- No fees on cards of any amount.

New Jersey:

- Cards are "valid until presented."
- All other restrictions must be conspicuously printed on the card.
- Covers cards issued by retail merchandise establishments.

New York:

- No monthly service fees before 13th month of dormancy.

Nevada:

- No fees for the first 12 months.
- After 12 months, fees may not exceed \$1 per month.
- Covers gift cards usable at a single store or chain. Multiple use cards are not covered.

Rhode Island:

- No expiration dates.
- No monthly or annual service or maintenance fees.

South Carolina:

- No expiration within the first year.
- Fees permitted but must be disclosed on certificate, envelope, covering, or receipt.

Tennessee:

- Card issuer is exempt from turning unused funds over to the state if the card has no expiration date and no dormancy fees.

Vermont:

- No expiration within the first three years.

- No fees, except a licensed money transmitter, financial institution or credit union may charge a one time issuance fee the smaller of \$10 or 10%.
- Effective: July 1, 2005.

Washington:

- Prohibits expiration dates and all fees, with one exception.
- Permits a \$1 per month fee only when the card has a balance of \$5 or less, the card has been unused for 24 months, the card is reloadable, and the fee is disclosed on the card.
- Does not apply to gift cards issued by a financial institution or its operating subsidiary if usable at multiple unaffiliated sellers of goods or services.

*This is a summary of key features of many state gift card laws. Consumers Union does not give legal advice. Gift card laws are changing rapidly. Please consult the laws of your state for more information.

Prepared by:
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Updated: June 24, 2005

expiration of prepaid bank cards within 24 months immediately following the date of sale by the original purchaser of the card; 2) prohibits the charging of a dormancy fee against a prepaid bank card within 24 months immediately following the date of sale, and within 24 months immediately following the most recent activity or transaction in which the card is used; 3) limits the dormancy fee, when applicable, charged against a prepaid bank card to no more than \$2.00 per month; and 4) requires appropriate disclosure of the above card expiration and dormancy fee provisions to prepaid bank card consumers.

A.B. 3866

Makes it an unlawful practice under the Consumer Fraud Act to sell certain products via an Internet auction. The bill targets those products typically stolen from retailers by shoplifting gangs and resold over the Internet. The bill makes it an unlawful practice for a person to sell a value loaded card via Internet auction unless the seller provides to the auctioneer, as well as the company's general counsel, a written or electronic record of the purchase or acquisition of the value loaded card, including the serial number and amount of the value loaded card; the date of purchase of the value loaded card; and the name, address and phone number of the person from whom that value loaded card was purchased or acquired. If a person sells an aggregate of five or more value loaded cards in contemporaneous Internet auctions conducted by an Internet auctioneer, the Internet auctioneer has 24 hours to notify the retailer of the sale in writing or electronically. The auctioneer must give the retailer relevant information about the seller, including the sales history and all aliases and accounts used by the person. The bill requires Internet auctioneers to immediately terminate an Internet auction if they receive information providing a reasonable basis to conclude that the auction violates the bill's provisions or that the merchandise is stolen. Internet auctioneers who affirmatively demonstrate that they have received the information required by the bill will not be deemed liable.

New York**A.B. 41**

Prohibits the sale of gift certificates and gift cards that diminish in value due to dormancy; and prohibits surcharges and fees on gift certificates and gift cards.

Utah**H.B. 261**

Makes it a violation of Title 13, Chapter 11, Utah Consumer Sales Practices Act, to issue a gift certificate that has an expiration date or deducts a fee without disclosing the expiration date or fee on the gift certificate or its packaging; provides that a gift certificate that does not disclose an expiration date or fee neither expires nor is subject to a fee; and makes technical changes.

Virginia**H.B. 2552**

Expands the existing provisions regarding gift certificate disclosures to prohibit the issuer of a gift certificate from charging a maintenance fee, service fee, inactivity fee, or other fee on the gift certificate. Gift certificate issuers are also prohibited from placing an expiration date or otherwise limiting the time for the redemption of a gift certificate and from issuing a gift certificate that diminishes in value over time unless the gift certificate was issued pursuant to an awards or loyalty program where no money or thing of value exchanged or was donated to a charitable organization. The definition of a gift certificate is expanded to include any record that contains a microprocessor chip, magnetic strip, or other storage medium that is prefunded and for which the value is adjusted upon each use. The definition also includes card-activated prepaid long distance telephone service. The measures apply to all issuers of gift certificates in the Commonwealth; currently, the gift certificate disclosure requirements apply only to merchants.

2006 Legislation**Connecticut****S.B. 503**

Requires retailers holding closing-out sale licenses to (1) honor their gift cards and certificates, (2) allow gift card and certificate holders to redeem them for either consumer goods or their cash value, and (3) include in all advertisements a notice that gift cards and certificates may be redeemed before the store closes. It prohibits them from selling, offering to sell, or advertising the sale of gift cards or certificates after applying for a closing-out sale license.

Hawaii**H.B. 1980**

Passed House 3/7/06

Exempts multi-use gift cards from definition of gift certificate.

H.B. 3084

Adds maintenance fees as a fee that is prohibited from being charged to dormant or inactive gift certificates.

S.D. 2096

Exempts multi-use gift cards from definition of gift certificate.



States Challenge Mall Gift Cards

November 7, 2004

Gift certificate and gift cards have become increasingly popular gifts at holiday time, but consumers should be aware that many come with hidden fees and may have a limited life span.

Massachusetts and Connecticut are taking a chain of shopping malls to court. The states have filed suit against Simon Malls, charging the national mall chain is selling gift cards that violate state consumer protection laws.

"These 'gift cards' are riddled with additional charges that Massachusetts consumers should not have to pay," Massachusetts Attorney General Tom Reilly said. "Despite the name, these gift cards are not what they seem."

Reilly said the cards violate the Massachusetts Gift Certificate law, which requires that gift cards be redeemable at full face value for seven years.

"Simon says - but Simon Property fails to tell the truth, when it subtracts \$2.50 a month from consumer gift cards six months or older," Connecticut Attorney General Richard Blumenthal said. "Simon illegally picks its customers' pockets to reactivate cards with unused balances."

"Card purchasers intend to give a gift to friends or loved ones, not to an already wealthy mall owner. State law - as well as logic and fairness - demand that gift cards retain their value just like dollars in a drawer," Blumenthal said.

In the Massachusetts lawsuit, Reilly charges that Simon Malls imposes a one-year expiration date on its cards and charges consumers numerous fees that significantly reduce the value of the card before it expires. Those charges include a \$2.50 dormancy fee that Simon automatically charges after the card has been held for six months, an initial fee to purchase the card, and fees for checking the card's balance or transferring the balance to another card.

While the state gift certificate law requires gift cards to be redeemable at full face value for seven years, a Simon Gift Card with a \$25 face value is worth only \$12.50 after the eleventh month, and would expire - be worth nothing at all - after one year.

The lawsuit alleges that these gift cards are subject to Massachusetts law, and not immune from state enforcement under the National Bank Act because they are not a bank product, as Simon Malls contends in a recent lawsuit. Reilly also alleges that Simon Malls does not sufficiently disclose fees connected with the card before consumers purchase them.

Connecticut's suit charges Simon is illegally imposing expiration dates on gift cards and charging fees on unused balances. The suit also charges that Simon fails to properly inform customers of two additional fees: a 50-cent charge to check the card balance and a \$5 fee to replace a stolen or lost card.

Simon Property Group is based in Indiana and owns and operates regional malls throughout the United States, including 14 in Massachusetts.

[Back to the top](http://www.consumeraffairs.com) (<http://www.consumeraffairs.com>)



NEWS RELEASE

Comptroller of the Currency
Administrator of National Banks

NR 2006-84

FOR IMMEDIATE RELEASE
August 14, 2006

Contact: Robert M. Garsson
(202) 874-4294

OCC Issues Guidance on Gift Cards

WASHINGTON – The Office of the Comptroller of the Currency today issued guidance on disclosure and marketing issues associated with gift cards. The guidance focuses on the need for national banks that issue gift cards to do so in a manner in which both purchasers and recipients are fully informed of the product's terms and conditions.

"The gift card market is growing rapidly, and the terms and conditions of various cards can vary widely," said Comptroller of the Currency John C. Dugan. "It's very important that national banks engaged in this business adopt robust disclosure policies so that consumers understand what they are getting when they buy or receive a gift card."

Gift cards present special challenges because disclosures to a purchaser may not be adequate for a gift card recipient. The OCC expects national banks that issue gift cards not only to inform purchasers about material terms and conditions, but to take appropriate steps so that critical information is likely to be available to recipients as well.

Basic information that is most essential to a gift card recipient's decisions about when and how to use the card should be provided on the gift card itself, or on a sticker or tape affixed to the gift card. Disclosures should generally tell consumers:

- The expiration date of the card (which should appear on the front of the card);
- The amount or the existence of any monthly maintenance, dormancy, usage or similar fees;
- How to obtain additional information about their cards or other customer service (for example, by providing a toll free number or website address).

In addition, since the user of the gift card is generally not the person who purchased the product, issuers should provide information for card recipients and encourage purchasers to pass it on. These disclosures could be carried in promotional packaging or inserted into an accompanying sleeve and include such information as the name of the issuing bank, any fees that may apply and what to do if the card is lost or stolen.

The OCC's new guidance also advises national banks to avoid practices that could be misleading to consumers. For example, issuers should not advertise a gift card with "no

expiration date" if monthly service or maintenance fees, dormancy fees or similar charges can consume the card balance. Similarly, if fees may consume the card balance before the stated expiration date, disclosures related to that expiration date should explain that possibility. Issuers should also avoid describing gift cards as if they are gift certificates or other payment instruments more familiar to consumers, or as products that carry federal deposit insurance.

The full text of the guidance is available on the news release page of the OCC's web site.

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The Office of the Comptroller of the Currency was created by Congress to charter national banks, to oversee a nationwide system of banking institutions, and to assure that national banks are safe and sound, competitive and profitable, and capable of serving the banking needs of their customers in the best possible manner. OCC press releases and other information are available at <http://www.occ.gov>. To receive OCC press releases and issuances by email, subscribe at <http://www.occ.gov/listserv.htm>.



NEWS RELEASE

Comptroller of the Currency
Administrator of National Banks

NR 2006-127

FOR IMMEDIATE RELEASE
November 28, 2006

Contact: Kevin M. Mukri
(202) 874-5770

OCC Reminds Consumers of Holiday Tips on Gift Cards

WASHINGTON – As the holiday shopping season gets underway, the Office of the Comptroller of the Currency (OCC) wants consumers to know that it is important to check carefully the terms and conditions that apply to gift cards they buy or receive.

People thinking about purchasing gift cards should consult a 2004 OCC Consumer Advisory that provides important information about such issues as fees and expiration dates, and explains how to handle complaints and lost or stolen cards.

“As we enter the holiday season, it is especially important that consumers be alert to the wide variety of terms and conditions available in the gift card market,” said Comptroller John C. Dugan. “By asking a few questions based on the information provided in our Advisory, holiday shoppers will be able to select the gift card that best meets their requirements for this popular product.”

Some issuers, for example, deduct a monthly fee from the gift card or apply inactivity fees if the card has not been used for some period of time. Gift card holders may not realize that the value of their cards has been reduced until they use them for a purchase.

The OCC suggests that consumers make sure they have received disclosures on some of the important terms and conditions of the gift card they purchase, including:

- The fees, if any, that apply to the gift card, including those that apply after the sale and reduce the value of the card
- The expiration date of the gift card
- The procedures to follow in the event a card is lost or stolen
- The locations at which the gift card can be used
- The procedures to follow in the event there are problems with the gift card

If these disclosures are not stated on the gift card itself, or its packaging, the OCC suggests that consumers check to see if there is a toll-free number or Web site that will provide this information.

Some gift cards are issued by banks and some are issued by nonbank companies. The OCC has been providing periodic guidance to national banks on the subject of stored-value cards, including gift cards. The most recent OCC guidance on gift cards was issued on August 14, 2006, and addressed disclosure and marketing issues associated

with gift cards.

Consumers are encouraged to read "*Gift Cards: OCC Provides Holiday Tips for Consumers*" on the OCC's Web site: www.occ.gov/ftp/release/2004-108a.pdf.

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The Office of the Comptroller of the Currency was created by Congress to charter national banks, to oversee a nationwide system of banking institutions, and to assure that national banks are safe and sound, competitive and profitable, and capable of serving the banking needs of their customers in the best possible manner. OCC press releases and other information are available at <http://www.occ.gov>. To receive OCC press releases and issuances by email, subscribe at <http://www.occ.gov/listserv.htm>.

boston.com

THIS STORY HAS BEEN FORMATTED FOR EASY PRINTING

CONSUMER BEAT

The Boston Globe

Bill could run bank gift cards out of Mass.

By Bruce Mohl, Globe Staff | April 9, 2006

Beacon Hill lawmakers are trying to rein in bank-issued gift cards by outlawing the fees the cards depend on for a profit, a move that could have the effect of running the cards right out of the state.

The Senate has approved and sent to the House a bill that broadens the existing gift-card law to include bank-issued cards and to prohibit all customer fees for a period of seven years.

Industry analysts say bank-issued cards, which differ from retail gift cards in that they can be used virtually anywhere the card issuer (Visa, MasterCard, or American Express) is accepted, may not be able to survive if they are forced to eliminate their fees.

Senator Michael W. Morrissey, a Quincy Democrat who helped draft the gift-card legislation, said American Express representatives have told him the company would stop selling its cards in Massachusetts if the bill passes. American Express has already stopped shipping cards to Connecticut, Hawaii, New Hampshire, Rhode Island, and Vermont because of restrictions in those states. A company spokesman declined to comment.

Morrissey said the legislation would give Attorney General Thomas F. Reilly greater leverage in his lawsuit against a popular bank card issued by Indianapolis-based Simon Property Group, which operates malls in Massachusetts and across the country.

"It's like driving a knife through their heart," Morrissey said. "If we pass this, we will definitely make the attorney general's job easier."

Sarah Nathan, a Reilly spokeswoman, said the attorney general supports the legislation for the reason he sued Simon, to protect consumers. "Consumers should not have to worry that hidden fees and charges will wipe out the value of a gift card," she said.

Stewart A. Stockdale, chief marketing officer for Simon, said consumers know the pros and cons of bank-issued cards, which can be used in most stores, and retail cards, which can be redeemed only at the issuing store.

"The national trend is to incorporate that distinction into local legislation, focusing on consumer disclosure and customer education -- rather than fee prohibitions -- and allowing consumers to choose which option best suits their needs. It appears that, so far, the Massachusetts Legislature has chosen not to follow this trend," Stockdale said.

Stockdale declined to say what Simon would do if the gift-card legislation passes, other than to say that the Simon card "has been operated, and will continue to be operated, in compliance with all applicable law."

Several states give special treatment to bank-issued cards. New Jersey, for example, passed a gift-card law in January that prohibited dormancy, or inactivity, fees for at least two years. Prepaid bank-issued cards were exempted from the law.

Gift cards have become an enormous business since Blockbuster issued the first one in 1996. The Tower Group, a Needham research firm owned by MasterCard, estimates total sales this year of \$61.8 billion, with the market split between retail cards (\$50.8 billion) and prepaid bank cards (\$11 billion).

The prepaid market, consisting of cards directed at shoppers, consumers without bank accounts, and

corporations looking for a way to reward employees, is expected to grow 42 percent over the next two years to \$15.6 billion.

But as the prepaid market expands, it is bumping up against state laws restricting the fees and expiration dates of gift cards. Reilly, for example, sued Simon Property Group in November 2004, alleging it was violating the state gift-card law by selling a card that expired after one year and assessed \$2.50-a-month dormancy fees after six months.

Simon has since modified the card's terms, imposing the \$2.50-a-month fee after 13 months and making the card last at least 20 months. The card also comes with an initial \$2 to \$3 handling fee.

Simon has argued that its card is issued by a federally chartered bank and therefore not subject to state regulation. But that assertion was undercut by the US Office of Comptroller of the Currency, which notified Reilly and Simon that state restrictions on gift card fees are not preempted by federal regulations or law.

With Reilly's case against Simon dragging on in state court, the new gift-card legislation was drafted to give the attorney general more ammunition. Morrissey said anger about gift card fees is so great on Beacon Hill that he attracted more than 80 cosponsors with little effort.

Massachusetts law requires gift cards to last seven years, but the law is vague. Reilly has interpreted the language to mean that a card must last seven years before any fees can reduce its value, but the law doesn't specifically prohibit fees and it's not clear whether the law even applies to a card that could be redeemed anywhere.

The bill moving through the Legislature expands the definition of a gift card to cover cards that can be redeemed at multiple locations and prohibits "dormancy fees, latency fees, gratuities, or any other administrative fees or service charges that have the effect of reducing the total amount."

If the law passes or Reilly prevails in court, the bank-issued cards may have a tough time surviving here. Retail cards can operate without fees because cardholders eventually have to return to the store that issued the card to buy something. Owners of prepaid cards, by contrast, can shop almost anywhere, so the bank offering the card needs fee income to turn a profit.

Dennis Moroney, senior bank cards analyst at the Tower Group, said the market for prepaid gift cards is so big and expanding so fast that banks may just increase their up-front handling fees to cover their costs. He said rising fees could turn off consumers and pressure the federal government to develop a national gift-card policy.

"Your state is rattling the cage here," Moroney said. "In the end, like most things in life, there's probably going to be a compromise."

Bruce Mohl can be reached at mohl@globe.com. ■

HB

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HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 50(HES)
(H) Publish Date: 2/29/08

Identifier (file name): HB050-DOA-OPA-2-20-08 Dept. Affected: Administration
Title: "An Act relating to the Interstate Compact for the Placement of Children . . ." RDU: Legal and Advocacy Services
Sponsor: Reps Coghill, Neuman, Wilson, Hawker, Lynn Component: Office of Public Advocacy
Requester: _____ Component Number: 43

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES ()								
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Other Interagency Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: 0.0

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

This bill would include Alaska among the states agreeing to set up a commission to establish rules regarding the out of state placement of children. It is not expected to have a fiscal impact on OPA.

Prepared by: Joshua P. Fink, Director
Division: Office of Public Advocacy
Approved by: Rachael Petro, Deputy Commissioner
Department of Administration

Phone: 907-269-3501
Date/Time: 2/20/08, 10:30 a.m.
Date: 2/20/2008

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 50(HES)
 (H) Publish Date: 2/29/08
 Dept. Affected: Health & Social Services
 RDU: Children's Services
 Component: Children's Services Management

ID(File name) HB50-DHSS-CSM-02-21-08
 Title: CHILD PLACEMENT COMPACT

Sponsor: COGHILL
 Requester: HOUSE (HES)

Component No. 2666

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation		Information						
	Required		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES									
Personal Services						81.8	361.0	361.0	361.0
Travel						10.2	244.5	244.5	244.5
Contractual						28.2	62.1	62.1	62.1
Supplies						1.5	5.0	5.0	5.0
Equipment						2.0	5.0	5.0	5.0
Land & Structures									
Grants & Claims									
Miscellaneous									
TOTAL OPERATING			0.0	0.0	0.0	123.7	677.6	677.6	677.6
CAPITAL EXPENDITURES									
CHANGE IN REVENUES (0)									

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						18.5	98.3	98.3	98.3
1003 CF Match						105.2	579.3	579.3	579.3
1004 GF									
1037 GF/Mental Health									
Other(Specify Type-do not abbreviate)									
Other(Specify Type-do not abbreviate)									
TOTAL			0.0	0.0	0.0	123.7	677.6	677.6	677.6

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time					1	5	5	5
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

The purpose of this Interstate Compact for the Placement of Children is: to provide a process through which children subject to this compact are placed in safe and suitable homes in a timely manner; to facilitate ongoing supervision of a placement, the delivery of services, and communication between the states; to provide operating procedures that will ensure that children are placed in safe and suitable homes in a timely manner; and to provide for the promulgation and enforcement of administrative rules implementing the provisions of this compact and regulating the covered activities of the member states.

Con't on page 2

Prepared by: Tamm Sandoval, Director
 Division: Office of Children's Services
 Approved by: Karlee Jackson, Commissioner
 Agency: Department of Health and Social Services

Phone: 907-465-3191
 Date/Time: 02/17/2008
 Date: 02/21/2008

STATE OF ALASKA
2008 LEGISLATIVE SESSION

ANALYSIS CONTINUATION

The Office of Children's Services does not anticipate additional need for funding in FY 2009 or FY 2010 for the following reasons:

- (1) Alaska is one of the first states to take up legislation to adopt the new language and 34 other states must also adopt the compact before it can be ratified. Ratification could take up to two years.
- (2) Administrative rules and procedures will take an additional year to develop and implement.

The OCS will need to return to the Legislature for funding in 2011 and 2012 once the compact has been ratified by the states and the start date for implementation of new rules and procedures has been determined.

Once implemented, the Office of Children's Services anticipates that the establishment of an interstate commission for the placement of children, the incorporation of federal home study timelines, development and implementation of home study assessment standards, increased data collection and reporting, more interaction and support with the new commission, expanded training to include other agencies and stakeholders, and increased expenses related to membership participation will require \$677.6 annually.

Personal services: Current staffing for this program is a program coordinator (range 20) and a clerk (range 8). There are approximately 550 interstate cases, both private and custody cases. In addition, the coordinator facilitates and maintains records for private residential placements, which total about 400 cases. The program coordinator facilitates the request process; monitors supervision reports and correspondence between states; provides case management and supervision of cases; and provides liaison activities with other states, state attorneys, private attorneys, court appointed special advocates, and families. The program coordinator also provides training and technical assistance to all interested parties to ensure compliance with compact and OCS policy.

With the new requirements in HB 50, current staff levels will not be able to comply with new data and reporting requirements, higher levels of training, support of the commission, and higher levels of administrative case management and supervision in the field and in the Central, administrative office in Juneau. The OCS will need an additional case worker in Juneau to meet case management, data collection, and reporting requirements to allow the program coordinator to expand case management and supervision of cases. In addition, the program coordinator will be required to expand training to other agencies involved in the new process, including the Division of Juvenile Justice, the courts, guardians ad litem and tribes, while continuing to coordinate, act as liaison and facilitate meetings and activities of the commission. These costs will begin in 2011 as indicated in this note. In 2012, there will also be a need for four additional workers in the field in order to meet the compact's homestudy and supervision deadlines and requirements. (Continued on Page 3)

STATE OF ALASKA
2008 LEGISLATIVE SESSION

ANALYSIS CONTINUATION

The OCS anticipates the need for a Social Worker III in the Central, administrative office in Juneau in 2011 (range 18 - \$81.8); plus an additional \$279.2 in 2012 for 4 additional Social Worker I's - Anchorage, Mat Su, Kenai and Fairbanks (3 range 15's - \$69.7 each; 1 range 15 (Fairbanks) \$70.1).

The OCS anticipates additional expenses in support of the interstate commission for the placement of children to include training, administrative support, travel, meeting and teleconference costs. In 2011, OCS estimates a need for \$10.2 to support travel for the coordinator and commission; \$28.2 contractual for interstate commission membership dues, increased overhead costs (human resources, IT, Dept. of Law services) and other related service costs; and \$3.5 for supplies and equipment. The department estimates an additional need in 2012 of \$234.3 to support travel for homestudy and supervision; \$33.9 contractual for increased overhead costs (human resources, IT, Dept. of Law services) and other related service costs; and \$6.5 for supplies and equipment.

Of the total \$677.6, the federal share will be \$98.3.

ALASKA STATE HOUSE OF REPRESENTATIVES



Session

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State Capitol
Room 204

Contact:

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North Pole, AK 99705
(907)-488-5725
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REPRESENTATIVE JOHN COGHILL

SPONSOR STATEMENT

HB 50 Interstate Compact for the Placement of Children

In an effort to control the language of a new interstate compact for child placement, I agreed to introduce HB 50. Throughout the last year my office has been a participant in bringing out our concerns about the original language and working on amending the language to preserve state sovereignty. The HESS committee substitute is the latest version of the compact supported by the American Public Human Services Association and the American Academy of Adoption Attorneys.

The current ICPC was drafted in 1959 to assure that children placed across state lines were placed with the same protections and services as children placed intrastate. Through the years, however, it has become evident that the ICPC has resulted in unnecessary delays in moving children across state lines, lack of accountability, and an outdated administrative process. Additionally, the current ICPC applies to all interstate placements such as placement with relative and residential treatment centers, not just those placements involving children in state custody.

The new compact holds member states to a higher standard of duty, eliminates regulation of children not in state custody, makes provisions for private child placement agencies, and brings the administrative process into the 21st century with home study incentives, definitions for new terminology, requiring consideration of interstate placements, requires cooperation between member states in sharing information, and gives foster parents more participation in the process.

HB 50 gives state child placement agencies and courts the tools to make faster interstate placements and hold all parties accountable for providing a safe, reliable home for children in out-of-state placement.

REPRESENTATIVE
JOHN COGHILL
HOUSE RULES
COMMITTEE CHAIRMAN

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Alaska State Legislature



DISTRICT 11

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House of Representatives

March 6, 2007

Steve Dale, Commissioner
Department for Child and Family Services
103 S Main Street
Waterbury VT 05671-9800

Dear Mr. Dale:

I introduced HB 50 in the Alaska Legislature after hearing the need at a CSG meeting for a new Interstate Compact. However, we have not scheduled the bill for committee at this time due concerns we have with the current revised ICPC.

We have met with our local ICPC administrator as well as other groups concerned with the revised ICPC and have come to the conclusion that specific items need to be addressed before we can proceed with the bill. These problems include:

- Art. XII (A)(2); Art. XII (C)(c): Enforcement issues
- Art. XIII (B): Program cost
- Art. VI. (B); Art. XI (D): Potential conflicts with state sovereignty
- Art. IX. (A) (C) (D); Art. XI (A) (D) (II): Formulation of regulations

We are strongly supportive of working with the ICPC and other states to improve the process of adopting and placing foster children in order to ensure a safe and timely procedure. This requires a process that is open and responsive. To this end we would like to have the opportunity to view the feedback that the drafters received from the various states about the concerns they had with the draft as well as suggestions for improvement.

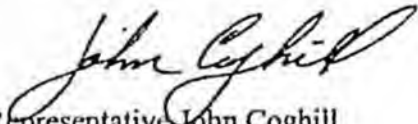
We would like to work with the commission and compact coordinators of CSG to come up with proposals to current problems that we have with the new ICPC and we look

forward to the opportunity to do this. We want an ICPC that we can fully support and will work for passage in our state legislature. However, we are just as strongly committed to block the passage of the ICPC in its current form.

The need for fixing problems that exist with the current ICPC is real and urgent and we support this effort. We look forward to hearing from you and would appreciate your comments and recommendations regarding the issues aforementioned.

Thank you for your work on the new ICPC.

Sincerely,



Representative John Coghill
Rules Chairman

cc:

Leslie McGee
Dr. Bruce Goldberg
Howard Hendrick
Carmen Hooker Odom
Chris Peterson
Lewis H. Spence
Brenda Harvey
Kevin Concannon
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January 14, 2008

VIA EMAIL ATTACHMENT

Carla Fults, Project Manager
American Public Human Services Association (APHSA)
810 First Street, N.E., Suite 500
Washington, DC 20002

Dear Ms. Fults:

On behalf of the American Academy of Adoption Attorneys (AAAA), it is my pleasure to inform you that the January 7, 2008, draft of the new Interstate Compact for the Placement of Children (ICPC) that you provided to us has been approved by AAAA Board of Trustees.

In a message to all the Fellows of the Academy sent today, I announced the official position of the Academy to recommend passage of this version by the states.

Please let me know if you need anything further at this time regarding AAAA's support of The New Compact.

Very truly yours,

Herbert A. Brail, President

HAB/er

APHSA

American Public Human Services Association

TO: Commissioners, Child Welfare Director., Compact Administrators,
Deputy Compact Administrators and ICPC Staff

FROM: Carla Fults,
Project Manager

DATE: January 25, 2008

SUBJECT: Endorsement and Revisions of the New ICPC of the New Interstate
Compact *for* Placement of Children. (ICPC)

It is with great pleasure that I inform you that the American Academy of Adoption Attorneys (AAAA or Quad A) has agreed to full approval and support of the attached version of the New Interstate Compact *for* the Placement of Children (ICPC or New ICPC). After careful negotiation with the American Academy of Adoption Attorneys, we have successfully negotiated new provisions which address the concerns raised by various private and independent adoption groups throughout the country. The attached document is a result of contributions from state compact administrators, state legal counsels, stakeholders and child and family welfare judges. The Executive Committee of the National Council of State Human Services (APHSA Policy Council) has endorsed the attached revised version of the New Interstate Compact *for* the Placement of Children (ICPC) for introduction to state legislatures. In addition, the executive committees of the National Association of Public Child Welfare Administrators (NAPCWA) and the Association of Administrators of the Interstate Compact on the Placement of Children (AAICPC) have endorsed the attached version of the New ICPC.

You may recall, between June, 2006 and July, 2007, approximately fifteen (15) states introduced the Proposed New Compact. However, only Ohio, Missouri and Maine were successful in passing the legislation. Private and independent adoption agencies launched an effective campaign to oppose the Proposed New ICPC, asserting that the draft did not adequately address many of the problems and barriers existing under the current ICPC. Such barriers included excessive wait times for ICPC processing before prospective adoptive parents could travel or return to their home state with a child; arbitrary requests and requirements which were not an important or necessary part of the ICPC process; and conflict of laws and unclear processes where two or more states were involved in an interstate adoption. In addition, the group argued that the Proposed New Compact needed to clarify the definition and application of an assessment compared to a home study and whether these terms would represent and require a separate and